

Title 2. Administration  
Division 2. Financial Operations  
Chapter 3. Department of General Services  
Subchapter 4. Office of Public School Construction  
Group 1. State Allocation Board  
Subgroup 5.5. Regulations Relating to the Leroy F. Greene School Facilities Act of 1998:  
(School Facility Program)

Article 1. General Provisions and Definitions

Section 1859. Purpose.

These regulations implement the Leroy F. Greene School Facilities Act of 1998, which establishes a State program to provide State per pupil funding for new construction and modernization of existing school facilities.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17070.10 and 17070.35, Education Code.

Section 1859.1. General Services Director.

The General Services Director, or his or her legal designee shall perform all acts necessary to carry out the provisions of the Act except such functions as are reserved to the Board and to other agencies by law or by Sections 1859 through 1859.107 inclusive. The acts to be performed include, but are not limited to, entering into contracts to administer the Act.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Section 17070.20, Education Code.

Section 1859.2. Definitions.

For the purpose of these regulations, the terms set forth below shall have the following meanings, subject to the provisions of the Act:

“2002 Critically Overcrowded School Facilities Account” means the funds set aside pursuant to Education Code Section 17078.30(a) for Preliminary Apportionments.

“2004 Critically Overcrowded School Facilities Account” means the funds set aside pursuant to Education Code Section 17078.30(b) for Preliminary Apportionments.

“Academic Achievement” means to improve one’s ability to achieve academically and to accomplish study in core curriculum areas such as reading, writing, mathematics, science, vocational education, technology, history or social science.

“Act” means the Leroy F. Greene School Facilities Act of 1998.

“Adjacent” means the HSAA’s that will make up the Super HSAA are adjoining, touching, or share a common geographical boundary.

“Alternative District Owned Site” means a district owned site that is deemed available for the project by the California Department of Education.

“Application” means a request pursuant to the Act to receive an eligibility determination and/or funding for a school project.

“Apportionment” shall have the meaning set forth in Education Code Section 17070.15(a).

“Approved Application(s)” means a district has submitted the application and all documents to the Office of Public School Construction that are required to be submitted with the application as identified in the General Information Section of Forms SAB 50-01, *Enrollment Certification/Projection*, (Revised 07/01); SAB 50-02, *Existing School*

*Building Capacity*, (Revised 07/01); SAB 50-03, *Eligibility Determination*, (Revised 07/01); and SAB 50-04, *Application for Funding*, (Revised 09/04/02), as appropriate, and the Office of Public School Construction has completed and accepted a preliminary approval review pursuant to Education Code Section 17072.25(a). "Approved Application for Joint-Use Funding" means a district has submitted an *Application for Joint-Use Funding* Form SAB 50-07 (New 09/02) including all documents that are required to be submitted with the application as identified in the General Information Section of that Form to the OPSC and the OPSC has accepted the application for processing.

"Attendance Area" shall have the meaning set forth in Education Code Section 17070.15(b).

"Board" means the State Allocation Board as established by Section 15490 of the Government Code.

"CBEDS Report" means the enrollment information provided through the California Basic Education Data System by school districts to the CDE.

"California Department of Education" (CDE) means the offices within that department that have responsibility for school facilities matters.

"CDE Source School List" means a list developed and published by the CDE that identifies districts Critically Overcrowded Schools pursuant to Education Code Section 17078.18(c).

"CEC" means the California Energy Resources, Conservation and Development Commission.

"Certification" means the act of affirmatively representing, asserting or verifying circumstances, data or information as required by the Act or this subgroup.

"Childcare" means any program that is operated less than 24-hour per day, in which non-medical, licensed care and supervision are provided to children in a group setting.

"Class B Construction Cost Index" is a construction factor index that is provided monthly by Marshall and Swift, for the Western area, for structures made of reinforced concrete or steel frames, concrete floors, and roofs, and accepted and used by the Board.

"Classroom" means a teaching station that has the same meaning as the term used in Education Code Section 17071.25(a)(1).

"Classroom Provided" means a classroom acquired by lease, lease-purchase, or purchase for which a contract has been signed for the construction or acquisition of the classroom.

"Committee" shall have the meaning set forth in Education Code Section 17070.15(e).

"Comprehensive High School" means a high school that serves any grades seven through twelve that offer a variety of curricula, including common courses that emphasizes academic achievement and traditional subject that all students are required to take.

"County Fund" shall have the meaning set forth in Education Code Section 17070.15(j).

"Critically Overcrowded School" means a school that has a pupil population density greater than 115 pupils per usable acre in grades Kindergarten through six, or a pupil population density greater than 90 pupils per usable acre in grades seven through twelve based on the 2001 CBEDS enrollment.

"Current Replacement Cost" means ~~\$300~~ 346.60 per square foot for ~~Toilet space~~ Facilities and ~~\$150~~ 192.60 per square foot for all other spaces. The amounts shown will be adjusted annually in the manner prescribed in Section 1859.71.

"Department" shall have the meaning set forth in Education Code Section 17070.15(d).

"District Representative" means a member of a school district staff or other agent authorized to serve as "District Representative" to execute and file an application with the Board on behalf of the district and/or act as liaison between the Board and the district.

"Division of the State Architect (DSA)" means the State office within the Department of General Services that reviews school building plans and specifications for structural, fire safety and access compliance.

"Elementary School Pupil" means a student housed in a school serving Kindergarten through sixth grade, or any combination of Kindergarten through sixth grade.

"Encumbered for Specific Purposes" means a commitment of funds by the school district to meet a legally binding obligation.

"Energy Audit" means an energy analysis and report which sets forth the utility savings that could be generated if the proposed project was designed, constructed, and equipped with energy efficiency and renewable technologies that would make the proposed project exceed the minimum building energy-efficiency standards mandated for new public buildings pursuant to the applicable California Building Standards Code.

“Energy Efficiency Fund” means the funds set aside by the Board for purposes of Education Code Section 17077.35.

“EnergyPro 3.1” means a computer program approved by the CEC that calculates energy efficiency standards.

“Environmental Hardship” means the State funding for site acquisition as authorized by Section 1859.75.1.

“Excessive Cost Hardship Grant” means the funding provided pursuant to Education Code Sections 17075.10 and 17075.15, by Section 1859.83.

“Executive Officer” means the individual appointed by the Governor to direct the Office of Public School Construction, and who concurrently serves as Executive Officer to the Board.

“Existing School Building Capacity” means the district’s total capacity to house pupils as calculated pursuant to Sections 1859.30 through 1859.33.

“Extra Cost” means the added costs to complete a Type II Joint-Use Project as determined in Section 1859.125(b)(2).

“Facility” means all or a portion of any real property, site improvements, utilities and/or buildings or other improvements contained in the project.

“Facility Hardship” means new or replacement facilities authorized by Section 1859.82 (a) or (b).

“Field Act Facility” means a school building meeting the requirements contained in Education Code Section 17280, et seq.

“Final Apportionment” means an apportionment made pursuant to Education Code Section 17070.15 by submittal of an application pursuant to Section 1859.21.

“Final Apportionment Unfunded List” means a list of projects where the entire Final Apportionment request was not converted to a Final Apportionment.

Financial Hardship” means State funding for all or a portion of the district’s matching share required by Section 1859.77.1 or 1859.79.

“Fund” shall have the meaning set forth in Education Code Section 17070.15(i).

“General Location” means the proposed location of a new school as set forth in Education Code Section 17078.22 and as described in Section 1859.142(e).

“Governmental Agency” shall include but is not limited to a public entity as defined in Government Code Section 7260(a) including California federally recognized or historically established tribal governments.

“High School Attendance Area (HSAA)” means an attendance area that serves a high school, other than a continuation high school or community school, that is currently operated by the district.

“High School District” means a school district that serves any combination of grades seven through twelve exclusively.

“High School Pupil” means a student in a school serving ninth through twelfth grade or any combination of ninth through twelfth grade.

“Higher Education” means an entity that is a public community college; a public college; a public university; or a non-profit/accredited organization of higher education.

“In Escrow, Governmental Entities” means the approval and signature of instrument(s) that will convey a specified school parcel or site from the public/government entity including the federal government for a determinable sum, and for a determinable date of acquisition which may be based on the district’s receipt of funding from the State.

“In Escrow, Non-Governmental Entities” means the deposit of signed instrument(s) and/or funds with instructions with a title company or escrow agent to carry out the provisions of an agreement or contract to acquire a specified school parcel or site for a determinable sum, and for a determinable date of acquisition which may be based on the district’s receipt of funding from the State.

“Inadequate” means, for purposes of Joint Use Projects, the square footage of the existing facility is less than 60 percent of the square footage entitlement shown in the Chart shown in Section 1859.124.1.

“Independent Audit” means an examination and report of the district’s accounts by a certified public accounting firm.

“Instrument” means a written, legally enforceable agreement, approved and signed by all parties to the escrow, for the conveyance to the district of real estate for a specified parcel or site, that includes a compensation clause and either a purchase option agreement, a purchase agreement, promissory note, lease agreement, installment sales contract, gift, or other real estate conveyance valid in the State of California for property conveyed from a public/government entity, including the federal government.

"Interim Housing" means the rental or lease of classrooms used to house pupils temporarily displaced as a result of the modernization of classroom facilities.

"Individual With Exceptional Needs" shall have the meaning set forth in Education Code Section 56026 as further defined and classified in 34 Code of Federal Regulations Part 300.5.

"Joint-Use Project" means a project approved by the Board pursuant to Education Code Sections 17050, ~~and 17051 17077.40, 17077.42 or 17077.45.~~

"Joint-Use Partner" means an entity that has entered into a joint-use agreement pursuant to Section 1859.129.

"Large New Construction Project" means a funding application request for at least 200 New Construction Grant(s) which will be used to construct a new Comprehensive High School or an addition to a Comprehensive High School.

"Large Modernization Project" means a funding application request for Modernization Grant(s) that exceed 50 percent of the current CBEDS enrollment of a Comprehensive High School that will be modernized.

"Lease-Purchase Program (LPP)" means the Leroy F. Greene State School Building Lease-Purchase Law of 1976, commencing with Education Code Section 17000.

"Major Maintenance" shall have the meaning set forth in Education Code Section 17070.77(b).

"Material Inaccuracy" means any falsely certified eligibility or funding application related information submitted by school districts, architects or other design professionals that allowed the school district an advantage in the funding process.

"Median Cost" means the middle number in a given sequence of numbers, or the average of the middle two numbers when the given sequence of numbers has an even number of numbers.

"Mello-Roos Bonds" means the bonds that are authorized under the provisions of the Mello-Roos Community Facilities Act of 1982, commencing with Government Code Section 53311.

"Middle School Pupil" means a student in a school serving sixth through eighth grade, or seventh and eighth grades.

"Modernization" shall have the meaning set forth in Education Code Section 17070.15(f) for purposes of projects subject to Subgroup 5.5, Article 2, commencing with Section 1859 or Education Code Section 17021 under the Lease-Purchase Program.

"Modernization Additional Grant" means the funding provided pursuant to ~~Education Code Section 17074.10(e) and (e).~~ Sections 1859.78.2, 1859.78.4, 1859.78.5 and 1859.78.7.

"Modernization Adjusted Grant" means the Modernization Grants, plus any Modernization Excessive Cost Hardship Grant.

"Modernization Excessive Cost Hardship Grant" means the funding provided by Sections 1859.83 (a), (b), (d), (e) and (f).

"Modernization Grant" means the funding provided pursuant to Education Code Section 17074.10(a) and Sections 1859.78, 1859.78.3 and 1859.78.6.

"Modernization Grants" means the Modernization Grant plus any Modernization Additional Grant.

"Modernization Eligibility" means the result of the calculation contained in either Option A or B of the *Eligibility Determination*, Form SAB 50-03 (Revised 07/01).

"Multi-Track Year-Round Education (MTYRE)" means a school education program in which the students are divided into three or more groups on alternating tracks, with at least one group out of session, and the other groups in session during the same period.

"New Construction Additional Grant" means funding provided pursuant to ~~Education Code Section 17072.10(c), (d) and (e); Education Code Section 17072.12, Education Code Section 17072.13 and Education Code Section 17072.18.~~ Sections 1859.71.2, 1859.71.3, 1859.72, 1859.73, 1859.73.1, 1859.73.2, 1859.74, 1859.74.2, 1859.74.3, 1859.74.4, and 1859.76.

"New Construction Adjusted Grant" means the New Construction Grants, plus any New Construction Excessive Cost Hardship Grant and any New Construction Facility Hardship Grant.

"New Construction Eligibility" means the result of the calculation determined in Education Code Section 17071.75.

"New Construction Excessive Cost Hardship Grant" means funding provided by Section 1859.83(a) (b), (c) and (d).

"New Construction Facility Hardship Grant" means funding provided by Section 1859.82(a) or (b).

"New Construction Grant" means the funding provided pursuant to Education Code Section 17072.10(a) and Sections 1859.71 and 1859.71.1 .

"New Construction Grants" means the New Construction Grant plus any New Construction Additional Grant.

“Non-Profit Organization” means an entity that is organized and operated for purposes of not making a profit under the provisions of the Revenue and Taxation Code.

“Non-Severely Disabled Individual with Exceptional Needs” means an individual with exceptional needs not defined in Education Code Section 56030.5 but included in 34 Code of Federal Regulations Part 300.5.

“Office of Public School Construction (OPSC)” means the State office within the Department of General Services that assists the Board as necessary and administers the Act on behalf of the Director.

“Permanent Area” means any area not included in a portable classroom.

“Permanent Classroom” means any classroom not meeting the definition of portable classroom.

“Phase C Approval” means the construction approval by the Board under the Lease-Purchase Program.

“Phase One Environmental Site Assessment (POESA)” shall have the meaning set forth in Education Code Section 17210(g).

“Phase P Approval” means the planning approval by the Board under the Lease-Purchase Program.

“Phase S Approval” means the site approval by the Board under the Lease-Purchase Program.

“Portable Classroom” shall have the meaning set forth in Education Code Section 17070.15(k).

“Preliminary Endangerment Assessment (PEA)” shall have the meaning set forth in Education Code Section 17210(h).

“Preliminary Application” means the district has submitted a Preliminary Application For funding, Form SAB 50-08 (New 09/02) including all documents that are required to be submitted with the application as identified in the General Information Section of that Form to the OPSC and the OPSC has accepted the application for processing.

“Preliminary Apportionment” means an apportionment made pursuant to Education Code Section 17078.10(c).

“Preliminary Plans” means a set of architectural drawings that provide a preliminary design.

“Priority One” shall have the meaning set forth in Education Code Section 17017.7(a)(1).

“Priority Two” shall have the meaning set forth in Education Code Section 17017.7(a)(2).

“Property” shall have the meaning set forth in Education Code Section 17070.15(g).

“Proposition 39” means the Initiative Measure (Prop. 39) enacted by passage at the November 7, 2000 general election which amended Sections 15102, 15106, 35233, and 72533 and added Chapter 1.5 (commencing with Section 15264) to Part 10, of the Education Code, and added applicable sections of the California Constitution relating to passage of local school bonds with a 55 percent vote of the electorate at a primary or general election, a regularly scheduled local election, or a statewide special election.

“Proposition 47” means the Kindergarten-University Public Education Facilities Bond Act of 2002.

“Pupil” means a student enrolled in any grade Kindergarten through grade twelve.

“Qualifying Pupils” means enrollment in excess of 86 pupils per useable acre for kindergarten through sixth grade or 68 pupils per useable acre for grades seven through twelve.

“Quarterly Basis” means a three-month period commencing on January 1, April 1, July 1 and October 1 of each calendar year.

“Ready for Apportionment” means a final review of an Approved Application has been completed by the OPSC and it has been determined that it meets all requirements of law for an apportionment or eligibility determination, and the OPSC will recommend approval to the Board.

“Rehabilitation Cost” means health and safety mitigation cost that is less than 50 percent of the current replacement cost of the facility.

“Remedial Action Plan (RAP)” means a plan approved by the Department of Toxic Substances Control (DTSC) pursuant to Health and Safety Code Section 25356.1.

“Resource Specialist Program” means pupils that meet the definition of Non-Severely Disabled Individual with Exceptional Needs as defined in Section 1859.2 that are not enrolled in a special day class.

“Response Action (RA)” means the removal of hazardous materials and solid waste, the removal of hazardous substances, and other remedial actions in connection with hazardous substances at the site.

“Restricted Fund” means the funds in the 2002 (or 2004 as appropriate) Critically Overcrowded School Facilities Account approved for a Preliminary Apportionment(s).

“School Building Capacity” shall have the meaning set forth in Education Code Section 17070.15(l).

“School District” shall have the meaning set forth in Education Code Section 17070.15(h).

“School Facilities Improvement District” means a legal entity authorized by Education Code Section 15300, to generate school facilities funding.

“School Facility Program (SFP)” means either the new construction or modernization programs implemented under the Act, by these Subgroup 5.5 regulations.

“SFP New Construction Account” means the fund for new construction projects authorized by Section 100620(a)(1) and 100820(a)(1).

“Secondary School Pupil” means a student in the seventh through the twelfth grade.

“Section” means a section in these Subgroup 5.5 regulations.

“Severely Disabled Individual with Exceptional Needs” means an individual with exceptional needs as defined in Education Code Section 56030.5.

“Small School District” means a school district with districtwide enrollment reported in Part A, the continuation high pupils reported in Part B, and the special day class pupils reported in Part C on the latest *Enrollment Certification/Projection* Form SAB 50-01(Revised 07/01) used to determine or adjust the district’s baseline eligibility pursuant to Sections 1859.50 and 1859.51 or submitted separately to the OPSC, that is 2,500 or less.

“Source School” means a Critically Overcrowded School included on the CDE Source School List that has Qualifying Pupils.

“Special Day Class” means a class that has pupils enrolled that are individuals with exceptional needs.

“Square Footage” means the enclosed area measured from the outside face of exterior structural walls of the building. For interior areas or portions of building areas, the enclosed area shall be measured from the centerline of the interior demising wall.

“Student Yield Factor” means the number of students each dwelling unit will generate for purposes of an enrollment augmentation.

“Substantial Enrollment Requirement (SER)” means a district that is operating on a Multi-Track Year-Round Education basis pursuant to Education Code Sections 17017.6 and 17017.7(c).

“Super High School Attendance Area (Super HSAA)” means two or more HSAA’s that are adjacent to each other.

“Teacher Education” means courses for credential programs or enhancement courses that are professional growth courses for elementary, secondary, higher education and special education instructors.

“Toilet Facilities” means restroom area, shower/locker area and physical therapy area for Individuals with Exception Needs.

“Type I Joint-Use Project” means a project that meets the criteria of Education Code Section 17077.40(b)(1).

“Type II Joint-Use Project” means a project that meets the criteria of Education Code Section 17077.40(b)(2).

“Type III Joint-Use Project” means a project that meets the criteria of Education Code Section 17077.40(b)(3).

“Unfunded List” means an information list of unfunded projects.

“Unrestricted Fund” means the funds in the 2002 (or 2004 as appropriate) Critically Overcrowded School Facilities Account not approved for a Preliminary Apportionment(s).

“Useable Acres” means the gross acreage of a school site less any portion of the site publicly dedicated for off-site street improvements and any portion of the site not available for school purposes as determined by the CDE because of topological impediments or because of other unique circumstances.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17070.51(a), 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.76, 17072.10, 17072.12, 17072.18, 17072.33, 17074.10, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17280, and 56026, Education Code. Section 53311, Government Code.

## Article 2. Program Transition

### Section 1859.10. Lease-Purchase Program and School Facility Program.

Projects approved under the LPP are subject to the regulations contained in Title 2, California Code of Regulations, commencing with Section 1865.1, and the SFP transition rules contained in this Article 2.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17009.5, Education Code.

### Section 1859.11. Previously Approved Joint Use Projects.

Joint Use projects that were approved by the Board prior to November 4, 1998, shall be eligible for funding pursuant to the LPP for all remaining approved but unfunded project costs.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Section 17009.5, Education Code.

#### Section 1859.12. Priority One New Construction.

Priority One new construction projects will be funded under the provisions of the LPP if the project received either: 1) Phase C approval by the Board prior to November 4, 1998; or 2) either Phase P or Phase P and Phase S, approvals, and DSA plan approval prior to November 4, 1998.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Section 17009.5, Education Code.

#### Section 1859.13. Priority Two New Construction.

Districts with Priority Two new construction projects which received either: 1) Phase C approval by the Board prior to November 4, 1998; or 2) either a Phase P or a Phase P and Phase S approval with DSA plan approval prior to November 4, 1998, must declare to the Board that it intends to convert the entire project to Priority One status by January 31, 1999 to receive funding for all remaining costs in accordance with the LPP provisions.

If the district has not declared its intention to convert the entire project to Priority One status by January 31, 1999, the project shall be deemed withdrawn under the provisions of the LPP and the district must submit a new application under the provisions of the SFP, pursuant to Section 1859.20. If the project is eligible for further funding under the SFP, the New Construction Adjusted Grant provided under the SFP will be reduced by any previous apportionments, with the exception of apportionments made for site acquisition, made under the LPP.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Section 17009.5, Education Code.

#### Section 1859.14. Priority One Modernization.

Priority One modernization projects that have either Phase C approval by the Board prior to November 4, 1998, or have Phase P approval by the Board and DSA plan approval prior to November 4, 1998, may proceed under either (a) or (b). Districts may either:

- (a) Receive funding under the provisions of the LPP; or,
- (b) By January 31, 1999, withdraw the Priority One modernization LPP project and submit a new application for funding under the provisions of the SFP, pursuant to Section 1859.20. The project approval date under the LPP will be retained for the project approval date under the SFP. If the project is eligible for further funding under the SFP, the Modernization Adjusted Grant provided under the SFP will be reduced by any previous apportionments made under the LPP.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Section 17009.5, Education Code.

#### Section 1859.15. Priority Two Modernization.

Districts with Priority Two modernization projects that have either Phase C approval by the Board prior to November 4, 1998, or have Phase P approval by the Board and DSA plan approval prior to November 4, 1998, must declare to the Board that it intends to convert the entire project to Priority One status by January 31, 1999 to receive funding for all remaining costs in accordance with the LPP provisions.

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

If the district has not declared its intention to convert the entire project to Priority One status by January 31, 1999, the project shall be deemed withdrawn under the provisions of the LPP and the district must submit a new application under the provisions of the SFP pursuant to Section 1859.20. The project approval date under the LPP will be retained for the project approval date under the SFP. If the project is eligible for further funding under the SFP, the Modernization Adjusted Grant provided under the SFP will be reduced by any previous apportionments made under the LPP.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Section 17009.5, Education Code.

#### Section 1859.15.1. Application Deadline.

Districts with LPP or SFP conversions from LPP new construction and modernization projects that meet the provisions of Sections 1859.12, 1859.13, 1859.14 or 1859.15 shall receive first funding priority upon submittal of a complete eligibility and funding application through July 5, 1999. After this date, LPP or SFP conversions from LPP new construction and modernization projects shall be funded in the order of the date of receipt of a complete application which complies with all pertinent LPP and SFP statutes and regulations.

Note: Authority cited: Section 17070.35, Education Code and Section 15503, Government Code.  
Reference: Sections 17009.3 and 17009.5, Education Code.

#### Section 1859.16. Projects Not Eligible for Further LPP Funding.

A district with projects not meeting the requirements of Sections 1859.11, 1859.12, 1859.13, 1859.14 and 1859.15 must submit a new application under the provisions of the SFP pursuant to Section 1859.20 in order to receive funding. If the project is eligible for further funding under the SFP, the

- New Construction Adjusted Grant provided under the SFP will be reduced by any previous apportionments, with the exception of apportionments made for site acquisition, made under the LPP.
- Modernization Adjusted Grant provided under the SFP will be reduced by any previous apportionments made under the LPP.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Section 17009.5, Education Code.

### Article 3. SFP Application Procedure

#### Section 1859.20. SFP Application for Determination of Eligibility.

A district seeking a determination of eligibility for a SFP project shall complete and file the following documents with the OPSC:

- For new construction, either districtwide, ~~or~~ HSAA, or Super HSAA, or ~~for~~ modernization projects, an application for *Eligibility Determination*, Form SAB 50-03 (Revised 07/01), which is incorporated by reference.
- For new construction projects, either districtwide, ~~or~~ HSAA or Super HSAA, an *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), which is incorporated by reference.
- For new construction projects, an *Existing School Building Capacity*, Form SAB 50-02 (Revised 07/01), which is incorporated by reference.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17070.35, 17070.50, 17070.80, 17071.10, 17071.25 and 17073.10, Education Code.

#### Section 1859.21. SFP Application for Funding.

A district seeking funding for a modernization or new construction project shall complete and file with the OPSC, the *Application for Funding*, Form SAB 50-04 (Revised 09/04 02), which is incorporated by reference.



Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.63, 17072.30 and 17074.15, Education Code.

#### Section 1859.22. SFP Application for Funding on Leased Land.

In addition to meeting the requirements of Sections 1859.20 and 1859.21 or 1859.120, a district may receive SFP New Construction Grants, Joint-Use Project Grants or Modernization Grants for facilities that are or will be located on real property leased by the district provided all the following are met:

- (a) The real property is leased from a governmental agency.
- (b) The term of the lease for the land for which the district is requesting SFP funding at the time the Approved Application is accepted is one of the following:
  - (1) At least 25 years if the lease is for real property owned by the federal government.
  - (2) At least 40 years if the lease is for real property owned by a governmental agency other than the federal government.
  - (3) At least 30 years if the lease is for real property owned by a governmental agency other than the federal government and the district has certified to all the following:
    - (A) There are no other educationally adequate sites for new construction available under a 40-year lease.
    - (B) The cost per year to lease the real property for no less than 30 years is no greater than the cost per year to lease the real property for 40 years.
  - (4) At least 30 years if the lease is for real property owned by a governmental agency other than the federal government and the district has provided other evidence satisfactory to the Board that a shorter lease term is necessary.

A district seeking modernization funding on land or facilities leased by the district pursuant to this Section is subject to the adjustment in the district's baseline eligibility pursuant to Section 1859.51(c).

A district seeking new construction funding on land or facilities leased by the district pursuant to this Section is subject to the adjustment in the district's baseline eligibility pursuant to Section 1859.51(a) and (i).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17070.71, Education Code.

### Article 4. Determining Existing School Building Capacity

#### Section 1859.30. Calculations to Determine Existing School Building Capacity.

For new construction projects the district shall complete, on a one-time basis, the classroom inventory pursuant to Sections 1859.31 and 1859.32 and report that inventory on the *Existing School Building Capacity*, Form SAB 50-02 (Revised 07/01). Completion of the calculations made on this Form shall represent the district's new construction Existing School Building Capacity.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17071.10, Education Code.

#### Section 1859.31. Gross Classroom Inventory.

The district shall prepare a gross inventory consisting of all classrooms owned or leased in the district ~~or the HSAA~~ or Super HSAA as appropriate. For the purpose of this gross classroom inventory, the following shall be considered a classroom. Any classroom:

- (a) for which a contract was signed for the construction or acquisition of facilities or for which construction work has commenced at the time the SFP application for determination of eligibility is submitted to the OPSC;
- (b) constructed with funds from the LPP;

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

- (c) used for Special Day Class or Resource Specialist Programs;
- (d) that are standard classrooms, shops, science laboratories, computer laboratories, or computer classrooms;
- (e) acquired or created for Class Size Reduction purposes;
- (f) used for preschool programs;
- (g) converted to any non-classroom purpose including use by others;
- (h) with Housing and Community Development or Department of Housing insignia;
- (i) acquired for interim housing for a modernization project;
- (j) leased or purchased under the State Relocatable Program pursuant to Chapter 14 of Part 10 of the Education Code;
- (k) that have a waiver for continued use by the Board for Field Act exemptions;
- (l) used for Community School purposes;
- (m) included in a closed school.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17071.25 and 17071.30, Education Code.

#### Section 1859.32. Adjustments to Gross Classroom Inventory.

After the gross classroom inventory has been prepared pursuant to Section 1859.31, it will be reduced by the following. Any classrooms:

- (a) abandoned and approved for replacement as a hardship under the provisions of the LPP;
- (b) at a school operated on a year-round schedule that has been used continuously for at least 50 percent of the time for preschool programs in the five years preceding the receipt of the application for determination of eligibility;
- (c) included in any new construction LPP project that has not received a Phase C apportionment;
- (d) that is portable and owned or leased by the district for 20 years or more that was approved for abandonment in a LPP project and the plans for the project had DSA approval prior to November 4, 1998;
- (e) that is a trailer and is transported/towed on its own wheels and axles;
- (f) used exclusively for regional occupational centers, regional occupational programs, child care, preschool and/or Adult Education Programs, and was built or acquired with funds specifically available for those purposes;
- (g) of less than 700 interior square feet;
- (h) originally built for instructional use, but converted to one of the following:
  - (1) used continuously for school administration for at least five years prior to the submittal of the application to the OPSC for determination of eligibility.
  - (2) used continuously for central or main district administration for at least five years prior to the submittal of the application to the OPSC for determination of eligibility.
  - (3) used for school library purposes during the previous school year.
- (i) owned but leased to another district.
- (j) any portable classroom excluded by Education Code Section 17071.30.
- (k) that is permanent space and leased for less than five years.
- (l) any permanent classroom contained in a project for which the construction contract was signed between August 27, 1998 and November 18, 1998 and for which the district did not have full project eligibility under the LPP.
- (m) that was acquired with joint use funds under the provisions of Education Code Sections 17052, 17077.40, 17077.42 and 17077.45.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17052, 17071.25 ~~and~~ 17071.30, 17077.40, 17077.42 and 17077.45, Education Code.

#### Section 1859.33. Classroom Identification and Determination of Existing School Building Capacity.

The district shall identify by grade level, based on its most typical use for grades K-6, 7-8 or 9-12, each classroom included in the classroom inventory determined pursuant to Section 1859.31 and not excluded pursuant to Section

1859.32. These classrooms shall be reported on the *Existing School Building Capacity*, Form SAB 50-02 (Revised 07/01).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.25, 17071.30, 17071.33, 17071.35 and 17071.40, Education Code.

#### Section 1859.35. Calculation of Existing School Building Capacity.

The district's existing school building capacity shall be determined by totaling the amount calculated in (a) with the amount determined in (b) or (c), whichever is the greater:

- (a) Multiply the number of available classrooms in the district, the HSAA or the Super HSAA by the following: 25 for each K-6 classroom and 27 for each 7-12 classroom. Available classrooms shall be determined by the reduction of classrooms identified in Section 1859.32 from the gross classroom inventory prepared pursuant to Section 1859.31 and the inclusion of portable classrooms as provided pursuant to Education Code Section 17071.30 (a) or (b).
- (b) Multiply the K-6 pupil capacity of the elementary district, the unified district, the HSAA or the Super HSAA in a unified district as determined by the results of the calculations in (a) at the time of the initial determination of eligibility by six percent. ~~For a high school district filing on a district wide basis, multiply the pupil capacity of the district as determined by the results of the calculations in (a) at the time of initial determination of eligibility by six percent or, as an alternative, by eight percent of the K-12 pupil capacity within the boundaries of the district. For a high school district filing on a HSAA, multiply the K-12 pupil capacity within the boundaries of the HSAA by eight percent.~~ When the elementary or unified district meets the Substantial Enrollment Requirement (SER) or qualifies for a waiver of the SER authorized by Education Code Sections 17017.6 and 17017.7(c), the amount reported in (b) shall be zero. For High School Districts, the amount reported in (b) shall be zero.
- (c) A number equal to the number of pupils provided operational grants as indicated in the current report of operational grants made by the CDE pursuant to Education Code Section 42268, less the number of pupils at a school on the MTYRE calendar that has a density of at least 200 or more pupils per acre when the district has at least 40 percent of its enrollment on MTYRE as of the date of determination of the existing school building capacity of the district.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.10, 17071.25, 17071.33, 17071.35 and 17071.40, Education Code

### Article 5. Enrollment Projections

#### Section 1859.40. Enrollment Projections Used to Determine a District's Eligibility for New Construction Grants.

The district shall provide an enrollment Certification and report enrollment data, on the *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01). The information provided on this Form shall serve as the basis for determining a district's eligibility for New Construction funding.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.75 and 17071.76, Education Code.

#### Section 1859.41. High School Attendance Area Reporting.

- (a) A district may request that its eligibility determination for a New Construction Grants be based on a HSAA or Super HSAA basis if it meets all the following criteria:
  - (1) The district demonstrates that the eligibility determination for a New Construction Grants in at least one of the district's HSAA or Super HSAA results in negative eligibility for maximum funding at any grade level within the HSAA or Super HSAA.

- (2) The New Construction Grants eligibility determination for the HSAA or Super HSAA is based on the existing boundaries of the HSAA or Super HSAA and the capacity and projected enrollment of the HSAA or Super HSAA as shown on the *Eligibility Determination*, Form SAB 50-03 (Revised 07/01).
- (3) The eligibility determination for the HSAA or Super HSAA includes a high school currently operated by the district that serves any combination of grades nine through twelve and ~~the~~ that high school is not a continuation high school or a community school.
- (b) If a district meets the criteria in subsection (a) and requests its eligibility determination to be based on an HSAA or Super HSAA, eligibility for a future New Construction Grants, with the exception of community school pupil grants for a county superintendent, in that HSAA or Super HSAA must be filed on the same basis for a period of five years from the date the district received an apportionment that was justified by eligibility under that HSAA or Super HSAA. When only a portion of the enrollment at a feeder school actually contributes to the HSAA or Super HSAA, the district shall report, as a percentage, only that portion of the enrollment. A county superintendent reporting on the basis of one or more HSAA basis may file applications by utilizing HSAA or Super HSAA boundaries of any district within the county. A county superintendent may report enrollment and file eligibility for a future New Construction Grants separately for special education pupils or for community school pupils.

If a district requests to re-file its eligibility determination from HSAA or Super HSAA to district-wide after the five year time period has elapsed, the existing school building capacity in the district will be determined based on classrooms available in the HSAA or Super HSAA at the time of initial request for eligibility determination and the current classrooms in the remaining portion of the district. Once the baseline eligibility has been determined for the district, it will be adjusted for classrooms constructed, funded or acquired in that HSAA or Super HSAA as provided by Section 1859.51.

Existing boundaries of a HSAA or Super HSAA may only be changed as a result of Section 1859.51(f).

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17070.35, 17071.75, 17071.76, Education Code.

#### Section 1859.42. Projecting Non-Special Day Class Enrollment.

The district enrollment, as reported on the *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), shall be used to calculate the district's projected enrollment other than Special Day Class enrollment. The OPSC shall use the following methodology to determine the districts projected enrollment:

- (a) All projected enrollment with the exception of Special Day Class enrollment shall be calculated pursuant to the cohort survival enrollment projection system which is described as follows:
  - (1) For all grades, determine the numerical change in enrollment between the current grade and the next lower grade in the previous year; determine the numerical change in enrollment between the previous year grade and the next lower grade in the second previous year; determine the numerical change in enrollment between the second previous year grade and the next lower grade in the third previous year. Determine the numerical change of kindergarten enrollment on the second previous and third previous year respectively.
  - (2) Compute the annual change in enrollment as explained in (1) for each grade. The annual change shall then be weighted by multiplying the most recent annual change in enrollment by three, the next most recent annual change by two, and the earliest annual change by one, and dividing the sum of the annual weighted changes for each grade by six. The result shall be the average annual change.
  - (3) Progress the latest reported enrollment through the five-year projection period, modifying the grade progression each year by the average annual change for each grade as computed in (2).
- (b) The enrollment projection will be augmented based on the number of pupils as reported by the district on *Enrollment Certification/Projection* Form SAB 50-01 (Revised 07/01), that will reside in dwelling units included in an approved subdivision map or valid tentative subdivision map that exceed the number of pupils projected as a result of the cohort survival method for that subdivision map. The augmentation shall be as follows:

- (1) Progress the current enrollment as reported on *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), for one year for each grade level. For kindergarten, the progressed current enrollment shall be the same as the reported current enrollment.
- (2) Subtract the current enrollment progressed one year for each grade level from the one-year projection of enrollment for each grade level as determined in (a). If the computation results in a negative number, the number shall be deemed zero.
- (3) Divide the current enrollment progressed one year for each grade level by the sum of the current enrollment progressed one year in all grade levels.
- (4) Multiply the number of housing units in the subdivision by the pupil yield factor provided on the *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01).
- (5) Multiply the number of pupils determined in (4) by the percentages determined in (3) for each grade.
- (6) Subtract five times the value determined in (2) from the value determined in (5). If the computation results in a negative number, the number shall be deemed zero.
- (7) Add the value in (6) to the fifth year of projected enrollment as computed in (a) to establish the augmented projection of enrollment.
- (c) The projected enrollment of a HSAA or Super HSAA shall be computed in the same manner as that set forth in this section, except that the enrollment used in such computation shall be that of the HSAA or Super HSAA rather than the entire district. Augmentation as provided in (b) of this Section may include only dwelling units located in the HSAA or Super HSAA.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17071.75 and 17071.76, Education Code.

#### Section 1859.43. Projecting Special Day Class Enrollment.

The district enrollment, as reported on the *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), shall be used to calculate the district's projected Special Day Class enrollment. The OPSC shall use the following methodology to determine the district's projected enrollment:

- (a) The projected enrollment of each classification of Special Day Class students served by a school district shall be computed by multiplying the reported enrollment of Special Day Class students by the five-year projection of the same grade level of students as determined by Section 1859.42. The resulting value shall be divided by the current enrollment of the same students as provided on *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01).
- (b) The projected enrollment of each classification of Special Day Class students served by a county office of education shall be computed as follows:
  - (1) Determine the percentage change in total Special Day Class enrollment from the current year to the previous year; determine the percentage change in total Special Day Class enrollment in the previous year to the second previous year; determine the percentage change in total Special Day Class enrollment in the second previous year to the third previous year. To determine the average annual increase, add the three percentage changes and divide by three.
  - (2) The current Special Day Class enrollment provided by the county office of education as reported on *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), shall be adjusted by the average annual percentage change in (1) for each year until the five-year projected enrollment has been determined.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17071.75 and 17071.76, Education Code.

### Article 6. New Construction Eligibility Determination

#### Section 1859.50. Calculations to Determine New Construction Baseline Eligibility.

The district shall calculate its eligibility determination by completion of the *Eligibility Determination*, Form SAB 50-03 (Revised 07/01). Eligibility determination for New Construction Grant(s) may be requested on either a district-wide basis, ~~or on~~ a HSAA or Super HSAA basis.

If a district requests to have its eligibility determination made on a district-wide basis, eligibility for future grants in the district must be filed on the same basis for a period of five years from the date the district received an apportionment that was justified by eligibility determined on a district-wide basis.

If a district requests to re-file its eligibility determination from district-wide to HSAA or Super HSAA after the five year time period has elapsed, the existing school building capacity in the HSAA or Super HSAA will be determined based on the classrooms available in the HSAA or Super HSAA at the time of the initial district-wide request for eligibility determination. Once the baseline eligibility has been determined for the HSAA or Super HSAA, it will be adjusted for classrooms constructed, funded or acquired in that HSAA or Super HSAA as provided by Section 1859.51.

If the district requests to have its eligibility determination made on a HSAA or Super HSAA, it must meet the criteria of Section 1859.41.

The calculated eligibility on the *Eligibility Determination*, Form SAB 50-03 (Revised 07/01), is the initial eligibility of the district, the HSAA or Super HSAA and shall be referenced as the baseline eligibility for future SFP funding. The baseline eligibility is the basis for filing an *Application for Funding*, Form SAB 50-04 (Revised 07/02), for a new construction SFP grant.

A district affected by a reorganization election on or after November 4, 1998 may file an application for a determination of new construction baseline eligibility after a successful reorganization election.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.10, 17071.25, 17071.30, 17071.33, 17071.40, 17071.75 and 17071.76, Education Code.

#### Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

The baseline eligibility for new construction determined on the *Eligibility Determination*, Form SAB 50-03 (Revised 07/01), will be adjusted as follows:

- (a) Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140.
- (b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in a new construction LPP project funded under the provisions of the LPP pursuant to Sections 1859.12 or 1859.13.
- (c) Reduced by the number of pupils housed in additional classrooms constructed or purchased based on the loading standards, pursuant to Education Code Section 17071.25(a)(2)(A), in a modernization SFP project.
- (d) Adjusted as a result of the audit findings made pursuant to Sections 1859.90 and 1859.105.
- (e) Increased/decreased by changes in projected enrollment in subsequent enrollment reporting years for all districts except decreases as provided in (j) below.
- (f) Adjusted as a result of errors or omissions by the district or by the OPSC.
- (g) Adjusted as a result of amendments to these Regulations that affect the eligibility.
- (h) Increased by the number of pupils eligible for grants pursuant to Section 1859.82 (a).
- (i) Reduced by the number of pupils housed, based on loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any classroom provided after the baseline eligibility was determined by the Board with the exception of those pupils housed or to be housed in a classroom:
  - (1) That is a trailer and transportable/towed on its own wheels and axles.
  - (2) Of less than 700 interior square feet.
  - (3) Excluded pursuant to Education Code Section 17071.30.

- (4) Where the contract for the lease, lease-purchase, purchase, or construction of the classroom was made prior to January 1, 2000.
- (5) Where the contract for the lease, lease-purchase, purchase, or construction was made no more than 180 days before the Approved Application date for funding of the classrooms included in the contract.
- (6) That is included in a SFP project where the district has funded a portion of the project beyond its required district contribution and the pupil capacity of the classroom does not exceed 150 percent of the number of pupils receiving a new construction grant (rounded up) for the SFP project.
- (7) That was acquired with Joint-Use funds under the provisions of Education Code Sections 17052, 17077.40, 17077.42 and 17077.45.
- (j) For small school districts, decreased:
  - (1) By any reduction in projected enrollment beginning in the enrollment-reporting year that follows a three year period beginning when the district's baseline eligibility was determined by the Board. The reduction shall be determined by any decrease between the current projected enrollment and the projected enrollment used when the district's baseline eligibility was determined by the Board pursuant to Section 1859.50 or adjusted by a subsequent operational grant report after that date.
  - (2) By any increase in the number of pupils included in the latest operational grant report made by the CDE pursuant to Education Code Section 42268 beginning three years after the district's baseline eligibility was determined by the Board pursuant to Section 1859.50. The reduction in eligibility shall be determined by the number of pupils included in the latest operational grant report that exceed the number of pupils included in the operational grant report in effect when the district's baseline eligibility was determined by the Board pursuant to Section 1859.50 or adjusted by a subsequent operational grant report after that date.
- (k) Adjusted for any change in classroom inventory as a result of a reorganization election.
- (l) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.
- (m) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.
- (n) Increased by the number of pupils that received a Preliminary Apportionment that was rescinded pursuant to Section 1859.148.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17052, 17070.51, 17071.25, 17071.75, 17071.76, ~~and 17072.20~~, 17077.40, 17077.42 and 17077.45, Education Code.

## Article 7. Modernization Eligibility Determination

### Section 1859.60. Calculation to Determine Modernization Baseline Eligibility.

The district shall calculate its eligibility by completion of the *Eligibility Determination*, Form SAB 50-03 (Revised 07/01). The eligibility determination may be made by either identifying all classrooms on the site pursuant to (a) or by the identification of all square footage on the site pursuant to (b), as follows:

- (a) Identify all classrooms at the school site that would have been included in the Gross Classroom Inventory pursuant to Section 1859.31 that are:
  - (1) Permanent and at least 25 years old and not previously modernized with State funds.
  - (2) Portable and at least 20 years old and not previously modernized with State funds.
  - (3) The remaining classrooms not reported in (1) or (2) above.
- (b) Identify all square footage at the school site that is:
  - (1) Permanent area and at least 25 years old and not previously modernized with State funds.
  - (2) Portable classroom area and at least 20 years old and not previously modernized with State funds.
  - (3) The remaining square footage on the site not reported in (1) or (2) above.

The age of the classroom or square footage shall be based on the date the district submitted the application for an eligibility determination to the OPSC. For purposes of identifying square footage at a school site, include the total enclosed exterior square footage of the school buildings. For multilevel buildings, include the square footage at each level.

Enrollment at the school shall be the latest CBEDS report for K-6, 7-8 and 9-12 pupils. If the school is closed at the time of application for eligibility determination for modernization, and the district intends to reopen it and use it as a school for at least the next five years, the enrollment may be estimated based on district demographic data.

The calculated eligibility determined on the *Eligibility Determination*, Form SAB 50-03 (Revised 07/01), shall be referred to as the modernization baseline eligibility for the specific school site.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17073.15, 17073.20 and 17074.10, Education Code.

#### Section 1859.61. Adjustments to the Modernization Baseline Eligibility.

The baseline eligibility for modernization as provided in Section 1859.60 for a specific site will be adjusted as follows:

- (a) Reduced by the number of pupils provided grants in a modernization SFP project at the specific site.
- (b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2), in a modernization LPP project funded under the LPP pursuant to Sections 1859.14 and 1859.15.
- (c) Increased by changes in projected enrollment in subsequent enrollment reporting years.
- (d) Increased for additional facilities not previously modernized with State funds, that become 25 years old, if permanent, or 20 years old, if portable or as a result of audit findings made pursuant to Section 1859.105.
- (e) Adjusted as a result of errors or omissions by the district or by the OPSC.
- (f) Adjusted as a result of amendments to these Subgroup 5.5 Regulations that affect the eligibility.
- (g) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.
- (h) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51, 17071.25, 17072.15 and 17072.20, Education Code.

### Article 8. New Construction and Modernization Grant Determinations

#### Section 1859.70. General.

A district seeking New Construction or Modernization funding shall complete and file an *Application for Funding*, Form SAB 50-04 (Revised 07/02), after completing the applicable requirements in Section 1859.20.

A district affected by a reorganization election on or after November 4, 1998 may not file an application for New Construction funding after the notification of the reorganization election until a new calculation of the district's baseline eligibility has been determined on the *Eligibility Determination*, Form SAB 50-03 (Revised 07/01), or the district certifies that the reorganization election will not result in a loss of eligibility for the project for which the district is requesting new construction grants.

A district that is newly created as a result of a reorganization election may file an application for funding after approval of the election has been made by the State Board of Education.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.10, 17072.10 and 17074.10, Education Code.

#### Section 1859.70.1. Available Funding for Energy Efficiency.

- (a) The Board shall set aside \$20 million pursuant to Education Code Section 100620(e) for energy conservation



adjustments authorized by Education Code Section 17077.35. The \$20 million shall be transferred to the Energy Efficiency Fund from the following sources:

- (1) \$14.2 million from the funds made available by Education Code Section 100620(a)(1).
- (2) \$5.8 million from the funds made available by Education Code Section 100620(a)(2).
- (b) The funds set aside in (a) shall be apportioned for the following:
  - (1) \$14.2 million for a New Construction Additional Grant for Energy Efficiency authorized by Section 1859.71.3.
  - (2) \$5.8 million for a Modernization Additional Grant for Energy Efficiency authorized by Section 1859.78.5.
- (c) The Board shall set aside \$20 million pursuant to Education Code Section 100820(e) for energy conservation adjustments authorized by Education Code Section 17077.35. The \$20 million shall be transferred to the Energy Efficiency Fund from the following sources:
  - (1) \$14.2 million from the funds made available by Education Code Section 100820(a)(1).
  - (2) \$5.8 million from the funds made available by Education Code Section 100820(a)(2).
- (d) The funds set aside in (c) shall apportioned for the following:
  - (1) \$14.2 million for a New Construction Additional Grant for Energy Efficiency authorized by Section 1859.71.3.
  - (2) \$5.8 million for a Modernization Additional Grant for Energy Efficiency authorized by Section 1859.78.5.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17077.35, 100620 and 100820, Education Code.

#### Section 1859.71. Adjustment to the New Construction Grant.

The new construction grant amount, as provided by Education Code Section 17072.10(a), will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January. The base Class B Construction Cost Index shall be 1.30 and the first adjustment shall be January, 1999.

For any changes or additions to the regulations adopted by the Board in 1999, those changes shall be adjusted in accordance with this Section at the time the regulations are adopted.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

#### Section 1859.71.1. New Construction ~~Additional~~ Grant for Individuals With Exceptional Needs.

In lieu of the funding provided in Subdivision (a) of Education Code Section 17072.10, tThe Board shall provide the following grant amounts for each pupil included in an approved project for new construction funding:

- (a) \$16,573 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
- (b) \$11,084 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.

The amounts shown shall be adjusted annually in the manner prescribed in Section 1859.71. The ~~additional~~ grant is eligible for any new construction grant augmentation for which the project is otherwise eligible under the law and regulations.

Note: Authority cited: Sections 17070.35, 17072.10 and 17074.10, Education Code.

Reference: Sections 17072.10 and 17074.10, Education Code.

#### Section 1859.71.2. New Construction Additional Grant for Fire Code Requirements.

- (a) In addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Regulation Sections 1859.71 and 1859.71.1, the Board shall provide the following grant amounts for each pupil included in an application for new construction if the project includes an automatic fire detection and alarm system as described in Education Code Section 17074.52:
  - (1) \$26.82 for each elementary school pupil.
  - (2) \$33.65 for each middle school pupil.

- (3) \$25.94 for each high school pupil.
- (4) \$80.06 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
- (5) \$53.57 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
- (b) In addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Sections 1859.71 and 1859.71.1, the Board shall provide the following grant amounts for each pupil included in an application for new construction if the project includes an automatic sprinkler system as required in Education Code Section 17074.52:
  - (1) \$83.67 for each elementary school pupil.
  - (2) \$99.01 for each middle school pupil.
  - (3) \$112.84 for each high school pupil.
  - (4) \$273.86 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
  - (5) \$183.23 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
- (c) Pursuant to Subdivision (c) of Education Code Section 17074.56, the Board shall provide the grant amounts shown in (a) and/or (b) above, in addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Section 1859.71.1, for each pupil included in an approved new construction project if all the following criteria are met:
  - (1) The final plans for the new construction project were submitted to the Division of the State Architect for review and approval between September 1, 2001 and June 30, 2002.
  - (2) The final plans for the new construction project included an automatic fire detection and alarm system and/or an automatic sprinkler system as described in Education Code Section 17074.52 or the project will include the system(s) prior to the completion of the project.
  - (3) The new construction project did not receive the entire New Construction Adjusted Grant apportionment by June 30, 2002.

The amounts shown in (a) and (b) above shall be adjusted annually in the manner prescribed in Section 1859.71.

Note: Authority cited: Section 17070.35, Education Code

Reference: Sections 17074.50, 17074.52, 17074.54 and 17074.56, Education Code

#### Section 1859.71.3. New Construction Additional Grant for Energy Efficiency.

- (a) In addition to the funding provided by Subdivision (a) of Education Code (EC) Section 17072.10 and Regulation Sections 1859.71 and 1859.71.1, the Board shall provide the grant amounts identified in (b) if all the following are met:
  - (1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.
  - (2) The proposed facilities in the project exceed the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations by at least 15 percent as determined by EnergyPro 3.1 or a similar computer program approved by the CEC.
  - (3) The DSA has reviewed the proposed project and concurs with the percentage of energy efficiency that exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations.
  - (4) No portion of the project will be funded with funds made available from the Renewable Energy Program administered by the CEC.
  - (5) There are funds remaining in the Energy Efficiency Fund as prescribed in Section 1859.70.1 to apportion some or the entire additional grant provided in (b).
- (b) An amount equal to the lesser of the following:
  - (1) The New Construction Grant multiplied by:
    - (A) One percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 15 percent but less than 17.5 percent.
    - (B) Two percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 17.5 percent but less than 20 percent.

- (C) Three percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 20 percent but less than 22.5 percent.
- (D) Four percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 22.5 percent but less than 25 percent.
- (E) Five percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 25 percent.
- (2) The funds available in the Energy Efficiency Fund.

If there are no funds remaining in the Energy Efficiency Fund or the funds remaining in the Energy Efficiency Fund are insufficient to fully fund the additional grant authorized in (b)(1), the district may either withdraw its application and resubmit it when additional funds are available in the Energy Efficiency Fund or continue with the new construction project and accept a full and final apportionment without the additional grant authorized by (b)(1) or the lesser apportionment authorized by (b)(2).

Note: Authority cited: Sections 17070.35, Education Code  
Reference: Section 17077.35 Education Code

#### Section 1859.72. New Construction Additional Grant for an Individual with Exceptional Needs.

In addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Sections 1859.71 and 1859.71.1, the Board shall provide an additional grant ~~The New Construction Grant will be increased~~ for the area of therapy rooms used by pupils that are Severely Disabled Individuals with Exceptional Needs. The district may request an ~~increase in the New Construction Grant~~ additional grant for therapy area, not to exceed 3,000 square feet, plus 750 square feet per additional Special Day Class classroom needed for Severely Disabled Individuals with Exceptional Needs. The additional grant amount shall be determined by multiplying the eligible square feet will be increased by \$153.30 173.30 per square foot for Ttoilet Ffacilities and \$78.30 96.30 per square foot for all other facilities. The amounts shown shall be adjusted annually in the manner prescribed in Section 1859.71.

Note: Authority cited: Section 17070.35 and 17072.10, Education Code.  
Reference: Sections 17072.10, 17072.15, 17072.25, 17074.56 and 56026, Education Code.

#### Section 1859.73. New Construction Additional Grant for Multilevel Construction.

In addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Sections 1859.71 and 1859.71.1, the Board shall provide an additional grant ~~The New Construction Grant will be increased~~ for the additional costs resulting from the need to build multilevel facilities. The additional grant is determined by multiplying the New Construction Grant by 12 percent for each pupil housed in a multilevel building that will house pupils in all levels of the building if the useable site acreage for the project is less than 75 percent of the site size recommended by the CDE for the master planned project capacity.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Section 17072.10, Education Code

#### Section 1859.73.1. New Construction Additional Grant for Project Assistance.

Excluding Joint-Use Projects, the Board shall provide an additional grant, in addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Sections 1859.71 and 1859.71.1, of The New Construction Grant will be increased by \$3,750 for small school districts for the cost necessary for project assistance.

The Board shall provide a Type III Joint-Use Project an additional grant, in addition to the amounts provided in Sections 1859.125 and/or 1859.125.1 of \$3,750 for small school districts for the cost necessary for project assistance. The amount(s) will be adjusted annually based on the change in the Class B Construction Cost Index as

approved by the Board each January. The base Class B Construction Cost Index shall be 1.37 and the first adjustment shall be January 2001.

~~This allowance shall only apply to any acceptable Application for Funding, Form SAB 50-04 (Revised 07/02) submitted to the OPSC no later than January 1, 2003.~~

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

Section 1859.73.2. New Construction Additional Grant for Replaced Facilities.

- (a) In addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Sections 1859.71 and 1859.71.1, the Board shall provide an additional grant for ~~The New Construction Grant will be increased by~~ the amount(s) in (b) below for the replacement cost of one-story buildings that are demolished at a school in order to increase pupil capacity of that school if all the following conditions are met:
- (1) The school must be on MTYRE at the time the Approved Application is accepted.
  - (2) The site size as determined by the CDE for the existing capacity of the school is less than 75 percent of the recommended CDE site size.
  - (3) The pupil capacity of the school must be increased by at least the greater of (A) or (B) below:
    - (A) Twenty percent of the existing pupil capacity (before replacement) of the school. Existing pupil capacity shall be determined by multiplying classrooms intended for grades kindergarten through six by 25, classrooms intended for grades seven through 12 by 27, classrooms intended for Non-Severely Disabled Individuals with Exceptional Needs by 13 and classrooms intended for Severely Disabled Individuals with Exceptional Needs by nine. Classrooms shall not include any classrooms reduced from the Gross Classroom Inventory pursuant to Section 1859.32.
    - (B) 200 pupils.
  - (4) The sum of (A) and (B) below is less than the amount determined in (E) below:
    - (A) Determine the estimated cost of demolition of the one-story buildings to be replaced. The cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Cost Publication.
    - (B) Multiply the square footage of the buildings to be replaced by the Current Replacement Cost.
    - (C) Multiply the New Construction Grants requested in box 2 of the *Application for Funding*, Form SAB 50-04 (Revised 07/02), by .01775 for K-6, .021 for 7-8 and .02472 for 9-12.
    - (D) Determine the average appraised value of land per acre, including relocation costs, within the attendance boundaries of the school. The appraisal must be consistent with Section 1859.74.1.
    - (E) Multiply the sums of the products determined in (C) above by the average appraised value of land per acre determined in (D) above.
  - (5) The CDE has determined that the replacement of the one-story buildings on the existing site with multilevel building(s) would be the best available alternative and will not create a school with an inappropriate number of pupils in relation to the size of the site.
  - (6) The one-story buildings to be replaced on the existing site may not be leased facilities.
  - (7) With the exception of portables acquired with Class Size Reduction funds, the one-story buildings to be replaced on the site may not have been funded for either new construction or modernization funds from Proposition 1A funds within the past five years from the date the Approved Application is accepted.
- (b) If the criteria in (a) are met, the additional grant is determined by multiplying ~~New Construction Grant will be increased by \$153.30~~ 173.30 per square foot for ~~Toilet~~ Facilities and by ~~\$78.30~~ 96.30 per square foot for all other facilities included in the one-story buildings to be replaced adjusted for the following:
- (1) The amounts shall be adjusted annually in the manner prescribed in Section 1859.71.
  - (2) The amounts shall be increased by the percentage authorized in Section 1859.73 if the replacement area will be multilevel building(s).
  - (3) The amounts shall be increased for excessive cost grants as provided pursuant to Section 1859.83(a) and (d).

The district is eligible for site development in accordance with Section 1859.76 including the demolition of the replacement structures as part of the ~~New Construction Grant for the SFP project.~~

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Section 17071.46 and 17074.56, Education Code.

#### Section 1859.74. New Construction Additional Grant for Site Acquisition Cost.

With the exception of projects that received site acquisition funds under the LPP, the Board shall provide an additional grant, in addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Sections 1859.71 and 1859.71.1, the New Construction Grant will be increased for the lesser of one half of the actual cost of the site or one-half of the appraised value of the site acquired as described in (a) and (b) of this Section.

(a) Actual Site Cost

The actual cost of the site shall be the purchase price as shown on the escrow documents or other appropriate documents such as court orders in condemnation or as specifically identified in agreements when the site is transferred in lieu of other legally required payments or fees due to the district. The actual cost shall be adjusted for the following:

- (1) Increased by the approved relocation expenses that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
- (2) Increased by four percent of the actual amount determined in (a) above, but not less than \$50,000. This amount shall provide an allowance for any appraisal, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
- (3) Increased by the DTSC costs for review, approval, and oversight of the POESA and the PEA.

(b) Appraised Value of the Site

The value determined by an appraisal made or updated no more than six months prior to application submittal to the OPSC for funding. A SFP project which had the site funded as a LPP project shall use the appraised value determined under the LPP. The appraisal may be reviewed by the OPSC for conformance with Section 1859.74.1. The approved appraised value shall be adjusted for the following:

- (1) Increased by the approved relocation expenses that conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
- (2) Increased by four percent of the appraised value determined in (b) above, but not less than \$50,000. This amount shall provide an allowance for appraisals, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
- (3) Increased by the DTSC costs for review, approval, and oversight of the POESA and the PEA.

The actual site cost or the appraised value of the site shall be reduced, on a prorated basis, by the percentage of the excess acreage of the site that exceeds the master plan site acreage approved by the CDE.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17072.12 and 17251, Education Code.

#### Section 1859.74.1. Site Acquisition Guidelines.

To receive a New Construction Additional Grant for site acquisition costs, the district must certify on the *Application for Funding*, Form SAB 50-04 (Revised 07/02), that the appraisal of the property was made utilizing the following criteria:

- (a) The land improvements and appurtenances, excluding fixtures, equipment and personal property, were appraised in an as is condition with the following exceptions:

- (1) The site shall be appraised as if it were a clean site, safe of all toxic contaminants in accordance with CDE guidelines and pursuant to Title 5, California Code of Regulations commencing with Section 14001.
- (2) The site valuation included only proposed site improvements associated with grading the site to a mass graded or super pad condition, defined as a site graded to construction readiness without foundation or paving and proposed utilities stubbed to the site. Any proposed site improvements or utilities not covered by a performance bond equal to 100 percent of the estimated cost of the site improvements and utilities must be completed prior to the close of escrow and detailed separately in the report.
- (b) Consideration in the appraisal was made for net useable acreage and severance damages.
- (c) The district or its legal counsel has contracted for appraisal services.
- (d) The appraiser has certified to the district that the appraisal complies with the Uniform Standards of Professional Appraisal Practices as promulgated by the Appraisal Standards Board of the Appraisal Foundation.
- (e) The amount of a court award for a site acquired in condemnation may be used in lieu of the appraised value determined in (a) through (d) above, when specifically approved by the Board.

The district shall be required to submit one appraisal. If the application includes a request for financial hardship as provided in Section 1859.81, the OPSC will review the appraisal for conformance with (a), (b), (c) and (d) prior to a recommendation for SFP funding to the Board.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17070.35 and 17072.12, Education Code.

#### Section 1859.74.2. New Construction Additional Grant for Hazardous Waste Removal.

With the exception of projects that received site acquisition funds under the LPP, the Board shall provide an additional grant, in addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Sections 1859.71 and 1859.71.1 ~~the New Construction Grant will be increased for a site acquired for the allowable costs of hazardous materials/waste removal and/or remediation costs. The allowable costs shall be the lesser of one half of (a) or (b) below:~~

- (a) The costs to implement the RA as determined necessary in the PEA that has been approved by the DTSC subject to the following:
  - (1) The costs may include the costs for preparation of the RA.
  - (2) The costs may include the DTSC costs for review and oversight of the preparation and implementation of the RA.
  - (3) The costs may not include continuous operational and maintenance costs associated with the RA.
- (b) The difference in the amounts determined pursuant to Section 1859.74 (a) and (b).

In no event can the amount provided in this Section and Section 1859.74 exceed 50 percent of the appraised value of the site as determined in Section 1859.74(b).

Note: Authority cited: Sections 17070.35 and 17072.13, Education Code.  
Reference: Sections 17072.12 and 17251, Education Code.

#### Section 1859.74.3. New Construction Additional Grant for Incidental Site and Hazardous Waste Removal for Leased Sites.

When a district has requested funding on a vacant leased site pursuant to Section 1859.22 that was never used for school purposes, the Board shall provide an additional grant, in addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Sections 1859.71 and 1859.71.1 ~~the New Construction Grant will be increased for the lesser of one half of the amounts allowed in (a) or (b) below:~~

- (a) The sum of all the following:
  - (1) The approved relocation expenses that conform to Title 25, Division 1, Chapter 6, Subchapter 1, California Code of Regulations, (Section 6000, et seq.). The reasonable and necessary relocation costs for purchasing fixtures

and equipment, personal property, new machinery/equipment and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.

- (2) \$50,000. This amount shall provide an allowance for any appraisal, escrow, survey, site testing, CDE review/approvals and the preparation of the POESA and the PEA.
- (3) The DTSC costs for review, approval, and oversight of the POESA and the PEA.
- (4) The costs to implement the RA as determined necessary in the PEA that has been approved by the DTSC subject to the following:
  - (A) The costs may include the costs for preparation of the RA.
  - (B) The costs may include the DTSC costs for review and oversight of the preparation and implementation of the RA.
  - (C) The costs may not include continuous operational and maintenance costs associated with the RA.
- (b) Appraised Value of the Site determined by an appraisal made or updated no more than six months prior to application submittal to the OPSC for funding pursuant to Section 1859.74.1. The appraisal may be reviewed by the OPSC for conformance with Section 1859.74.1.

The appraised value of the site shall be reduced, on a prorated basis, by the percentage of the excess acreage of the site that exceeds the master plan site acreage approved by the CDE.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17251 and 17070.71, Education Code.

#### Section 1859.74.4. New Construction Additional Grant for Hazardous Waste Removal Required on an Existing School Site.

- (a) With the exception of projects that received initial site acquisition funds under the SFP, the Board shall provide an additional grant, in addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Sections 1859.71 and 1859.71.1 the New Construction Grant may be increased for the necessary hazardous waste materials/waste removal and/or remediation costs on an existing school site where the New Construction Grants will be used if all the following are met:
  - (1) The New Construction Grant request is for additional school facilities on an existing school site.
  - (2) The New Construction Grant request does not include a funding request for initial site acquisition costs allowed pursuant to Sections 1859.74 or 1859.74.2.
  - (3) The existing school site where the New Construction Grant will be expended has a functioning school on the site or the site had a closed school that will again be used as a functioning school.
  - (4) The hazardous material cleanup costs are required by the DTSC.
- (b) If all the criteria in subsection (a) are met, the allowable hazardous waste removal cleanup costs shall be one half of all the following:
  - (1) The costs for preparation of the POESA, the PEA and the RA.
  - (2) The costs to implement the RA as determined necessary in the PEA that has been approved by the DTSC subject to the following:
    - (A) The costs may include the DTSC costs for review and oversight of the preparation and implementation of the RA.
    - (B) The costs may not include continuous operational and maintenance costs associated with the RA.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.18, Education Code.

#### Section 1859.75. Alternative District-Owned Site.

In order to receive a New Construction Additional Grant for site acquisition as provided in Section 1859.74, the district must:

- (a) certify there is no available Alternative District-Owned Site for that project deemed useable for school purposes by the CDE; or,

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

- (b) certify that it intends to sell an available Alternative District-Owned Site and use the proceeds for the purchase of the new site. In this event, the Board will recognize the lesser of:
  - (1) one-half of the actual cost or the appraised value of the available Alternative District-Owned Site as determined in Section 1859.74, whichever is the lesser, or
  - (2) one-half of the actual cost or the appraised value of the site purchased for the project as determined in Section 1859.74, whichever is the lesser.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.12, Education Code.

#### Section 1859.75.1. Separate Site Apportionment for Environmental Hardship.

- (a) A district is eligible for a separate apportionment for site acquisition even if it does not meet the financial hardship criteria contained in Section 1859.81, when all the following requirements are met:
  - (1) The district has eligibility for grants that equal at least 50 percent of the CDE master plan capacity of the site.
  - (2) The district has received a contingent site approval letter from the CDE indicating that the proposed site is the best available.
  - (3) The district has obtained a preliminary appraisal or an appraisal of the property by a qualified appraiser utilizing criteria outlined in Section 1859.74.1. The preliminary appraisal report may be made without access to the site.
  - (4) The district has provided a letter from the DTSC pursuant to Education Code Section 17072.13 that indicates the time necessary to complete the remediation removal of any hazardous materials/waste on the proposed site as determined necessary by the PEA and required in the RAP, will take at least 180 calendar days to complete.
- (b) If the conditions in (a) are met, the district is eligible for a separate apportionment for one half of the following:
  - (1) The lesser of the appraised value of the site as determined in Section 1859.74.1 or the amount the district reasonably expects to pay for the site including any hazardous materials/waste removal and/or remediation costs for the site.
  - (2) The estimated relocation expenses that will conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment, and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
  - (3) Four percent of the lesser of the appraised value of the site or the amount the district reasonably expects to pay for the site acquisition including any hazardous materials/waste removal and/or remediation costs for the site, but not less than \$50,000.
  - (4) The estimated DTSC costs for review, approval and oversight of the POESA and the PEA.

The amount provided in (b) as a separate site apportionment shall be offset from the New Construction Grant amount the district would otherwise be eligible for pursuant to Section 1859.70. A district seeking a separate apportionment for site acquisition shall submit an *Application for Funding*, Form SAB 50-04 (Revised 07/02).

Note: Authority cited: Section 17072.13, Education Code.

Reference: Sections 17072.13 and 17076.10, Education Code.

#### Section 1859.76. New Construction Additional Grant for Site Development Costs.

In addition to the funding provided by Subdivision (a) of Education Code Section 17072.10 and Sections 1859.71, 1859.71.1 and 1859.82, the Board shall provide an additional grant equal to ~~The New Construction Grant will be increased by~~ 50 percent of the following approved site development and applicable design costs:

- (a) Service site development cost, within school property lines for:
  - (1) Site clearance including the removal of trees, brush, and debris.
  - (2) Demolition and removal of existing buildings and site improvements which lie in the footprint of a proposed building or proposed site development.



- (3) Removal and rerouting of existing utility service which lie in the footprint of a proposed building or proposed site development.
- (4) Rough grading including cut and fill, and leveling and terracing operations required in the design of the project.
- (5) Soil compaction adhering to common engineering practices and engineered fill that is required by a soils report that is available for review by the OPSC.
- (6) On-site drainage facilities including inlets below grade drainage facilities and retention basins.
- (7) Erosion control improvements such as plant material, temporary sprinkler systems, jute mesh and straw, due to embankments having a slope of at least two to one and a vertical height greater than six feet.
- (8) Outside stairways, handicap ramps and retaining walls due to embankments having a slope of at least two to one and a vertical height greater than six feet.
- (9) Relocation of existing portable buildings which lie in the footprint of a proposed building or proposed site development including the cost for set-up and utilities if the portable will be relocated on the same site. If the portable will be moved to another site, only the costs to move the portable to the new location.
- (10) Fire code requirements on site that are not a part of the building.
- (11) Funding for multilevel parking structures on a new construction project when all the following have been met:
  - (A) The new construction project will be located on site acreage that is less than 50 percent of the site size recommended by the CDE for the master planned project capacity.
  - (B) The number of parking stalls to be funded does not exceed 2.25 for each classroom constructed in an elementary or middle school project.
  - (C) The number of parking stalls to be funded does not exceed six for each high school classroom constructed in a high school project that will serve 9-12 pupils.
  - (D) The state grant does not exceed \$7,500 per parking stall. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71.
- (12) Removal and relocation of portable classrooms on a site eligible for replacement pursuant to Section 1859.82(a) that are available for housing pupils pursuant to Section 1859.35(a).
  - (b) Off-site development cost on up to two immediately adjacent sides of the site, for the following:
    - (1) Curbs, gutters and paving of streets not to exceed one-half the mandated local street code requirements. When the existing streets are to be widened inward toward the property line from the existing face of the curb, all new street improvements lying within the one-half of mandated street width adjacent to the project.
    - (2) Sidewalks mandated by local ordinances.
    - (3) Street lighting, planting areas, street signs, traffic signals, trees or other costs mandated by local ordinances.
    - (4) City and/or county or special district fees pursuant to active ordinances.
    - (5) Reasonable cost for storm drains to point of connection.
    - (6) Funding for safety paths for pedestrian use beyond two immediately adjacent sides of the site necessary for a safe route to the new school site when the following conditions are met:
      - (A) The school district governing board has made a finding at a public hearing that pedestrian safety concerns require improvements in the form of safety paths to provide access to the school site, and the Department of Education concurs with that finding.
      - (B) The improvements are limited to the work necessary to install concrete, asphalt, gravel or other paving necessary to provide the safe paths.
      - (C) The state grant does not exceed \$50,000.
      - (D) The improvements do not include any cost for the acquisition of land, easements or other rights-of-way.
      - (E) The SAB has determined that development of additional pedestrian paths is reasonable.
  - (c) Utility service costs associated with the CDE approved site size that are necessary to serve the master planned capacity of the site as follows:
    - (1) Water: Installation of water supply line(s) and connection fees from the utility company connection to the meter, meters not provided by the serving utility, or installation of a domestic water system (i.e. well, pump, tank).
    - (2) Sewage: Installation of main sewage disposal line from the utility company connection to the first building lateral and if applicable, connection fees. Installation of a sewage treatment/disposal system and a main disposal line from the treatment system to the nearest building lateral of the collection system.

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

- (3) Gas: Installation of main supply line and connection fees from utility company to meter and connection fee if applicable. Installation of meters not provided by the utility. Connection of a liquefied petroleum system (and tank) from the main supply line to the first building lateral.
- (4) Electric: Installation of service from the utility to the building switchboard. Primary electric service runs from the utility company's point of connection to the transformer. Secondary electric service runs from the transformer to the switchboard. Connection fee, transformer pads and protective devices.
- (5) Communication systems: Installation of service from the company to the nearest distribution center.

The district must submit a detailed cost estimate for all requests for site development work and any justification documents that will support the work with the *Application for Funding*, Form SAB 50-04 (Revised 07/02).

The Board will approve reasonable and appropriate site development work which meet common engineering practices and industry standards that are consistent with the specific site conditions if the site development costs are consistent with the Saylor Current Construction Costs, current edition. The design professional must certify to the district that the site development work does not exceed the minimum requirements to develop the site to meet educational needs and/or standards.

Service site and off-site development costs shall be reduced, on a prorated basis, by the percentage of the excess acreage of the site that exceeds the master plan site acreage approved by the CDE.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17072.12 and 17072.35, Education Code.

#### Section 1859.77. Reduction in the New Construction Grant.

After the determination of the district's New Construction Adjusted Grant and ~~New Construction Additional Grant pursuant to Sections 1859.72, 1859.73, 1859.74 and 1859.76, plus Excessive Cost Hardship Grants pursuant to Section 1859.83~~ and financial hardship funding pursuant to Section 1859.81 have been made, the New Construction Adjusted Grant and any financial hardship funding provided pursuant to Section 1859.81 will be reduced by the alternative fee collected pursuant to Government Code Section 65995.7(a), if a reimbursement election or agreement pursuant to Government Code Section 65995.7 is not in effect.

Any reduction to the New Construction Adjusted Grant amount and any funding provided by Section 1859.81 made pursuant to this Section shall only include those alternative fees collected from residential units to be served by the facilities associated with the New Construction Grant. If the reduction is greater than the New Construction Adjusted Grant and the funding provided by Section 1859.81, the pupils to be housed in the proposed project will be reduced from the district's baseline eligibility and no SFP grants will be made to the district for that project. Any remaining off-set of the alternative fees collected shall be off-set on the next request for a New Construction Grant for other facilities to serve those residential units.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.20(b), Education Code and Section 65995.7, Government Code.

#### Section 1859.77.1. New Construction District Matching Share Requirement.

Except in the case of financial hardship provided by Section 1859.81, any ~~increase to the New Construction Grant, for New Construction Additional Grants, New Construction F facility H Hardship g Grants~~ as provided in Section 1859.82 or New Construction Excessive Cost Hardship Grants as provided in Section 1859.83, shall require a district matching share contribution on a dollar-for-dollar basis.

The district may include as its district matching share any amounts expended on the project for an energy audit made pursuant to Education Code Section 17077.10 and any amounts applied to the project for incentive grants or rebates received by the district from a program funded pursuant to Public Utilities Code Section 381.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17072.30 and 17077.10, Education Code.

## Section 1859.77.2. Use of New Construction Grant Funds.

New Construction grant funds shall be expended as set forth in Education Code Section 17072.35 and may also be utilized for the cost incurred by the district for the development and implementation of remedial action plan approved by the DTSC pursuant to Education Code Section 17213.

Authorization for use of New Construction Grants may be requested as follows:

- (a) A district may request new construction grants that do not to exceed 135 percent of the number of pupils that will be housed in the project based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations if the district has adopted a school board resolution that includes the following:
  - (1) A plan that identifies how the district has housed or will house the excess pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan may not include housing the excess pupils in portables excluded from existing school building capacity pursuant to Education Code Section 17071.30 or housing in facilities to be constructed with district funds if the district has received financial hardship approval pursuant to Section 1859.81.
  - (2) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.
  - (3) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.
- (b) A district may utilize new construction grant eligibility determined at a different grade level than the proposed project that do not exceed 135 percent of the number of pupils that will be housed in the project based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations subject to all the following:
  - (1) The district has adopted a school board resolution that includes the following:
    - (A) A plan that identifies how the district has housed or will house the excess pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan may not include housing the excess pupils in portables excluded from existing school building capacity pursuant to Education Code Section 17071.30 or housing in facilities to be constructed with district funds if the district has received financial hardship approval pursuant to Section 1859.81.
    - (B) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.
    - (C) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.
  - (2) The district must use its New Construction Grant eligibility, pursuant to subsections (b) and (d), in the following order:
    - (A) At the grade level of the proposed project.
    - (B) At the lowest grade level other than the proposed project.
    - (C) At the next highest grade level other than the proposed project.
  - (c) When the priority point mechanism described in Section 1859.91 has not been implemented, a district may request New Construction Grants that exceed 135 percent of the number of pupils that will be housed in the project based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations provided all the conditions in subsections (a)(1), (a)(2) and (a)(3) are met.
  - (d) When the priority point mechanism described in Section 1859.91 has not been implemented, a district may utilize new construction grants eligibility determined at a different grade level than the proposed project that exceed 135 percent of the number of pupils that will be housed in the project based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

regulations provided all the conditions in subsections (b)(1) and (b)(2) are met.

The New Construction Grant amount provided shall be determined based on the grant amount provided in Education Code Section 17072.10 for the grade level that generated the eligibility and any New Construction Additional Grant or New Construction Excessive Cost Hardship Grant the district qualifies for as provided by these regulations.

Note: Authority cited: Section 17072.13, Education Code.  
Reference: Sections 17072.13 and 17072.35, Education Code.

#### Section 1859.78. Adjustment to the Modernization Grant.

The Modernization Grant amount, as provided by Education Code Section 17074.10(a), will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January. The base Class B Construction Cost Index shall be 1.30 and the first adjustment shall be January, 1999.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Section 17074.10, Education Code

#### Section 1859.78.1. Additional Grant for an Individual with Exceptional Needs.

Note: Authority cited: Sections 17070.35 and 17074.10, Education Code.  
Reference: Sections 17071.25, 17074.10 and 56026, Education Code.

#### Section 1859.78.2. Modernization Additional Grant for Project Assistance.

In addition to the funding provided by Subdivision (a) of Education Code Section 17074.10 and Sections 1859.78, 1859.78.3 and 1859.78.6, the Board shall provide an additional grant of ~~The Modernization Grant will be increased~~ by \$2,000 for small school districts for the cost necessary for project assistance. The amount will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January. The base Class B Construction Cost Index shall be 1.37 and the first adjustment shall be January 2001.

~~This allowance shall only apply to any acceptable Application for Funding, Form SAB 50-04 (Revised 07/02) submitted to the OPSC no later than January 1, 2003.~~

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Section 17074.10, Education Code.

#### Section 1859.78.3. Modernization ~~Additional~~ Grant for Individuals With Exceptional Needs.

In lieu of the funding provided by Subdivision (a) of Education Code Section 17074.10, t~~The~~ Board shall provide the following grant amounts for each pupil included in an approved project for modernization funding:

- (a) \$7,158 for each pupil that is a Severely Disabled Individual with Exceptional Needs not housed in buildings at least 50 years old as determined by Section 1859.78.6.
- (b) \$4,788 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs not housed in buildings at least 50 years old as determined by Section 1859.78.6.

The amounts shown shall be adjusted annually in the manner prescribed in Section 1859.74 8. ~~The additional~~ grant is eligible for any modernization grant augmentation for which the project is otherwise eligible under the law and regulations.

Note: Authority cited: Sections 17070.35, 17072.10 and 17074.10, Education Code.  
Reference: Sections 17072.10 ~~and~~ 17074.10 and 17074.26, Education Code.

Section 1859.78.4. Modernization Additional Grant for Fire Code Requirements.

- (a) In addition to the funding provided by Subdivision (a) of EC Section 17074.10 and Sections 1859.78, 1859.78.3 and 1859.78.6, the Board shall provide the following grant amounts for each pupil included in an application for modernization if the project includes an automatic fire detection and alarm system as described in Education Code Section 17074.52 or the fire detection and alarm system is deferred as authorized by Subdivision (b) of Education Code Section 17074.50:
- (1) \$104.93 for each elementary school pupil.
  - (2) \$129.95 for each middle school pupil.
  - (3) \$127.40 for each high school pupils.
  - (4) \$335.71 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
  - (5) \$224.61 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
- (b) Pursuant to Subdivision (c) of Education Code Section 17074.56, the Board shall provide the grant amounts shown in (a) above, in addition to the funding provided by Subdivision (a) of Education Code Section 17074.10 and Sections 1859.78, 1859.78.3 and 1859.78.6, for each pupil included in an approved modernization project if all the following criteria are met:
- (1) The final plans for the modernization project were submitted to the Division of the State Architect for review and approval between September 1, 2001 and June 30, 2002.
  - (2) The final plans for the modernization project included an automatic fire detection and alarm system as described in Education Code Section 17074.52 or the project will include the system prior to the completion of the project.
  - (3) The modernization project did not receive the entire modernization Adjusted Grant apportionment by June 30, 2002.

The amounts shown in (a) above shall be adjusted annually in the manner prescribed in Section 1859.74 g.

Note: Authority cited: Section 17070.35, Education Code

Reference: Sections 17074.50, 17074.52, 17074.54 and 17074.56, Education Code

Section 1859.78.5. Modernization Additional Grant for Energy Efficiency.

- (a) In addition to the funding provided by Subdivision (a) of Education Code Section 17074.10 and Sections 1859.78, 1859.78.3 and 1859.78.6, the Board shall provide the grant amounts identified in (b) if all the following are met:
- (1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.
  - (2) The proposed facilities in the project exceed the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations by at least 10 percent as determined by EnergyPro 3.1 or a similar computer program approved by the CEC.
  - (3) The DSA has reviewed the proposed project and concurs with the percentage of energy efficiency that exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations.
  - (4) No portion of the project will be funded with funds made available from the Renewable Energy Program administered by the CEC.
  - (5) There are funds remaining in the Energy Efficiency Fund as prescribed in Section 1859.70.1 to apportion some or the entire additional grant provided in (b).
- (b) An amount equal to the lesser of the following:
- (1) The Modernization Grant multiplied by:
  - (A) One percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 10 percent but less than 11 percent.
  - (B) Two percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 11 percent but less than 12 percent.

- (C) Three percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 12 percent but less than 13 percent.
- (D) Four percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 13 percent but less than 14 percent.
- (E) Five percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 14 percent.
- (2) The remaining funds available in the Energy Efficiency Fund.

If there are no funds remaining in the Energy Efficiency Fund or the funds remaining in the Energy Efficiency Fund are insufficient to fully fund the additional grant authorized in (b)(1), the district may either withdraw its application and resubmit it when additional funds are available in the Energy Efficiency Fund or continue with the modernization project and accept a full and final apportionment without the additional grant authorized by (b)(1) or the lesser apportionment authorized by (b)(2).

Note: Authority cited: Sections 17070.35, Education Code  
Reference: Section 17077.35 Education Code

#### Section 1859.78.6. Modernization Grant for 50 Year or Older Buildings.

In lieu of the funding provided by Subsection (a) of Education Code Section 17074.10 and Section 1859.78.3, the Board shall provide, at the option of the district, the grant amounts shown in (c) for each pupil calculated in (a)(4) or (b)(4):

- (1) The number of pupils based on the percentage of classrooms that will be modernized in the project that are at least 50 years old calculated as follows:
  - (1) Determine the total number of permanent and portable classroom(s) that meet all the following:
    - (A) The classroom will be modernized as part of the project.
    - (B) If the classroom is portable, it is at least 20 years old but less than 50 years old when the Approved Application is received by the OPSC.
    - (C) If the classroom is permanent, it is at least 25 years old but less than 50 years old when the Approved Application is received by the OPSC
    - (D) The classroom would have been included in the Gross Classroom Inventory pursuant to Section 1859.31.
    - (E) The classroom was not previously modernized under the LPP, the SFP or with Proposition 1A funds.
  - (2) Determine the total number of permanent and portable classrooms that meet all the following:
    - (A) The classroom will be modernized as part of the project.
    - (B) The classroom is at least 50 years old when the Approved Application is received by the OPSC.
    - (C) The classroom would have been included in the Gross Classroom Inventory pursuant to Section 1859.31.
    - (D) The classroom was not previously modernized under the LPP, the SFP or with Proposition 1A funds.
- (3) Divide the classrooms determined in (a)(2) by the total classrooms determined in (a)(1) and (a)(2) and round up to the nearest one tenth of one percent.
- (4) Multiply the percentage determined in (a)(3) by the number of pupils assigned to the project on the *Application for Funding*, From SAB 50-04 (Revised 09/02) for each grade group. Round up.
- (b) The number of pupils based on the percentage of building area Square Footage that will be modernized in the project that is at least 50 years old, calculated as follows:
  - (1) Determine the total permanent and portable Square Footage building area that meet all the following:
    - (A) The Square Footage building area will be modernized as part of the project.
    - (B) If the Square Footage building area is portable, it is at least 20 years old but less than 50 years old when the Approved Application is received by the OPSC.
    - (C) If the Square Footage building area is permanent, it is at least 25 years old but less than 50 years old when the Approved Application is received by the OPSC
    - (D) The Square Footage building area would have been included in the Gross Classroom Inventory pursuant to Section 1859.31.
    - (E) The Square Footage building area was not previously modernized under the LPP, the SFP or with Proposition 1A funds.

- (2) Determine the total Square Footage of building area that meet all the following:
  - (A) The Square Footage of building area will be modernized as part of the project.
  - (B) The Square Footage of building area is at least 50 years old when the Approved Application is received by the OPSC.
  - (C) The Square Footage of building area would have been included in the Gross Classroom Inventory pursuant to Section 1859.31.
  - (D) The Square Footage of building area was not previously modernized under the LPP, the SFP or with Proposition 1A funds.
- (3) Divide the Square Footage of building area determined in (b)(2) by the total Square Footage of building area determined in (b)(1) and (b)(2) and round up to the nearest one tenth of one percent.
- (4) Multiply the percentage determined in (b)(3) by the number of pupils assigned to the project on the *Application for Funding*. From SAB 50-04 (Revised 09/02) for each grade group. Round up.
- (c) The pupils calculated in either (a)(4) or (b)(4) multiplied by:
  - (1) \$3,120 for each elementary pupil.
  - (2) \$3,300 for each middle school pupil.
  - (3) \$4,320 for each high school pupil.
  - (4) \$9,944 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
  - (5) \$6,650 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.

The amounts shown shall be adjusted annually in the manner prescribed in Section 1859.78. The grant is eligible for any modernization grant augmentation for which the project is otherwise eligible under the law and regulations.

For purposes of determining the age of the building, the 20 year, 25 year and the 50 year period shall begin 12 months after the original plans for the construction of the building were approved by the DSA.

Note: Authority cited: Sections 17070.35, Education Code

Reference: Section 17074.26, Education Code

#### Section 1859.78.7. Modernization Additional Grant for Site Development Necessary for 50 Years or Older Buildings.

In addition to the funding provided by Subdivision (a) of Education Code Section 17074.10 and Sections 1859.78, 1859.78.3 and 1859.78.6, the Board shall provide an additional grant for upgrading existing site development (utilities) work as necessary for the modernization of 50 years or older buildings equal to the lesser of (a) or (b):

- (a) 60 percent of the costs necessary to upgrade utility service to 50 year or older building(s) on the site as follows:
  - (1) Water: Replacement or repair of main water service line(s) between the utility company connection and to five feet of the 50 years or older building(s) on the site, connection fees if applicable, meter (if not provided by the serving utility), or replacement or repair of a domestic water system (i.e. well, pump, tank) as needed for the proper operation of the system.
  - (2) Sewage: Replacement or repair of main sewer line between the utility company connection and to five feet of the 50 years or older building(s) on the site and connection fees, if applicable. Replacement or repair of sewage appurtenances (i.e. treatment/disposal system) as needed for the proper operation of the system and a main disposal line from the treatment system to five feet of the 50 years or older building(s) on the site.
  - (3) Gas: Replacement or repair of main gas service line between the utility company connection and to five feet of the 50 years or older building(s) on the site, connection fee (if applicable), meter (if not provided by serving utility) or replacement or repair of gas service appurtenances (i.e. liquefied petroleum system an tank) as needed for proper operation of the system and a new main supply line from the tank to five feet of the 50 years or older building(s) on the site.
  - (4) Electric: Replacement or repair of electrical service between the utility company connection and the building main switchboard. Primary electric service runs between the utility company's point of connection and the transformer. Secondary electric service runs between the transformer and the main switchboard. Connection fee, transformer pads and protective devices (i.e. bollards) as required by the utility company.

- (5) Communication systems (i.e. cable television and telephone): Replacement or repair of service between the utility company connection and the nearest distribution center.
- (b) Twenty percent of the Modernization Grant authorized by Section 1859.78.6.

The district must submit a detailed cost estimate and appropriate DSA approved plans, with the *Application for Funding*, Form SAB 50-04 (Revised 09/02), for all requests for the site development work. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the modernization of the 50 years or older building(s) that will be modernized as part of the project.

The Board will approve reasonable and appropriate site development (utilities) work that meets common engineering practices and industry standards and are consistent with the specific site conditions, if the site development costs are consistent with the Saylor Remodeling/Repair Construction Costs, current edition. The design professional must certify that the site development (utilities) work does not exceed the minimum requirements to develop the site to meet educational needs and/or standards.

Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the 50 year or older building(s).

Note: Authority cited: Section 17070.35, Education Code  
Reference: Section 17074.26, Education Code.

#### Section 1859.79. Modernization Matching Share Requirement.

Except in the case of financial hardship as provided in Section 1859.81, a district matching share for a modernization project shall be required as follows:

- (a) If the Approved Application is received on or before March 15, 2002, ~~any increase to the Modernization Grant, for Modernization Additional Grants, facility hardships as provided in Section 1859.82 or Modernization Excessive Cost Hardship Grants as provided in Section 1859.83~~ shall require a district matching share equal to at least 20 percent of the total project cost which, combined with the State's Modernization Adjusted Grant shall represent 100 percent of the total project cost.
- (b) If the Approved Application is received after March 15, 2002, ~~any increase to the Modernization Grant, for Modernization Additional Grants, facility hardships as provided in Section 1859.82 or Modernization Excessive Cost Hardship Grants as provided in Section 1859.83~~ shall require a district matching share equal to at least 40 percent of the total project cost which, combined with the State's Modernization Adjusted Grant shall represent 100 percent of the total project cost.

The district may include as its district matching share any amounts expended on the project for an energy audit made pursuant to Education Code Section 17077.10 and any amounts applied to the project for incentive grants or rebates received by the district from a program funded pursuant to Public Utilities Code Section 381.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17074.15, 17074.16 and 17077.10, Education Code.

#### Section 1859.79.1. Modernization Reimbursement.

The Board will not provide Modernization funding for a project if the district entered into a construction contract for that project before August 27, 1998 unless:

- (a) The project met the provisions for funding under the LPP pursuant to Sections 1859.14 or 1859.15; or
- (b) The project was approved on the Year-Round Schools Air Conditioning/Insulation Program unfunded approval list pursuant to Education Code Section 42250.1.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17070.35, 17074.10 and 42250.1, Education Code.



## Section 1859.79.2. Use of Modernization Grant Funds.

Modernization grant funds shall be expended as set forth in Education Code Sections 17074.25 and 17070.15 (f) and may also be utilized for other purposes as set forth in Education Code Section 100420 (c). Modernization funding, with the exception of savings, is limited to expenditure on the specific site where the modernization grant eligibility was generated. The grant may not be used for the following:

- (a) New building area with the exception of the following:
  - (1) Replacement building area of like kind. Additional classrooms constructed within the replacement area will reduce the new construction baseline eligibility for the district.
  - (2) Building area required by the federal American with Disabilities Act (ADA) or by the Division of the State Architect's (DSA) handicapped access requirements.
- (b) New site development items with the exception of:
  - (1) Replacement, repair or additions to existing site development.
  - (2) Site development items required by the federal ADA Act or by the DSA's handicapped access requirements.
- (c) the evaluation and removal of hazardous or solid waste and/or hazardous substances when the Department of Toxic Substance Control has determined that the site contains dangerous levels of a hazardous substance, hazardous waste, or both that exceed ten percent of the combined adjusted grant and the district matching share for the project.
- (d) Leased facilities not owned by another district or a county superintendent.

Modernization Grant funds shall be expended as set forth in Education Code Section 17074.25 and may also be utilized for other purposes as set forth in Education Code Section 100420(c).

Modernization Grant funds may be used on any school facilities on the site. If the classroom facilities on the site include areas that are currently ineligible for modernization, it will not disqualify those facilities from future modernization funding.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.15, 17074.25 and 100420(c), Education Code.

## Section 1859.79.3. Minimal Requests for Modernization Grant Funds.

With the exception of Approved Applications that meet the requirements of Section 1859.107(a), districts seeking a Modernization Grant must submit an *Application for Funding*, Form SAB 50-04 (Revised 07/02) for at least 101 grants, or the remaining modernization eligibility at the school site if less than 101 grants.

*Application for Funding*, Form SAB 50-04 (Revised 07/02) requesting Modernization Grant funds that do not meet the above criteria will not be accepted by the SAB.

Note: Authority cited: 17070.35, Education Code.

Reference: Sections 17074.15, 17074.16, 17074.25 and 100420(c), Education Code.

## Article 9. Hardship Assistance

### Section 1859.80. General.

A district shall qualify for hardship assistance by demonstrating one or more of the following:

- (a) A financial hardship, as provided in Section 1859.81, which prevents the district from funding all or a portion of the matching share requirement for a SFP grant.
- (b) A facility hardship grant as provided in Section 1859.82.
- (c) An Excessive Cost Hardship Grant as a result of added construction costs due to unusual circumstances as provided in Section 1859.83.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17075.10 and 17070.15, Education Code.

#### Section 1859.81. Financial Hardship.

A district is eligible for financial hardship to fund all or a portion of its matching share requirement after demonstrating both of the following:

- (a) The district is financially unable to provide all necessary matching funds for an eligible project. To determine this, an analysis shall be made of the district's financial records by the OPSC including data and records maintained by the CDE and the County Office of Education. The analysis shall consist of a review of the district's latest Independent Audit regarding funds available from all capital facility accounts, including, but not limited to, developer fees, funds generated from capital facility certificates of participation, federal grants, redevelopment funds, sale proceeds from surplus property, the appraised value of facilities approved for replacement pursuant to Section 1859.82, bond funds either encumbered, unencumbered or authorized but unsold, and savings from other SFP projects. All funds thus identified that have not been expended or encumbered by a contractual agreement for a specific capital outlay purpose prior to the initial request for financial hardship status shall be deemed available as a matching contribution. The analysis is subject to approval by the Board.

From the funds deemed available as a matching contribution, the district may retain \$19,776 per classroom in each enrollment reporting period for the cost to provide interim housing for the currently unhoused pupils of the district. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71. The number of classrooms needed for interim housing for the currently unhoused pupils shall be the sum of the positive numbers determined in (a)(7) as follows:

- (1) Determine the current enrollment of the district by grade level as shown on the latest *Enrollment Certification/Projection*, Form SAB 50-01 (Rev. 07/01).
- (2) Determine the New Construction Grants apportioned by grade level for all SFP projects and LPP funded under the provisions of Sections 1859.12 or 1859.13 where the district has submitted an *Expenditure Report*, Form SAB 50-06 (Rev. 01/00) indicating that the project is 100 percent complete.
- (3) Subtract (a)(2) from (a)(1).
- (4) Determine the number of classrooms by grade level reported in Part 1, Line 8 on the latest *Existing School Building Capacity*, Form SAB 50-02 (Rev. 07/01).
- (5) Multiply the classrooms determined in (a)(4) by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe.
- (6) Subtract the product determined in (a)(5) from the difference determined in (a)(3) by grade level.
- (7) Divide the difference by grade level determined in (a)(6) by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

From the funds deemed available as a matching contribution, the district may also retain \$19,776 per portable toilet unit in each reporting period for the cost to provide necessary interim toilet facilities for the currently unhoused pupils of the district. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71. The number of toilet facilities needed for interim housing shall be the sum of the positive numbers determined in (a)(7) divided by eight rounded up to the nearest whole number.

If the district's available funds, as determined by the OPSC analysis less costs for interim housing, is less than its matching share, the district will be deemed to have met the requirements of this Subsection.

- (b) The district has made all reasonable efforts to fund its matching share of the project by demonstrating it is levying the developer fee justified under law or an alternative revenue source equal to or greater than the developer fee otherwise justified under law at the time of request for hardship and the district meets at least one of the following:

- (1) The current outstanding bonded indebtedness of the district, at the time of request for financial hardship status, is at least 60 percent of the district's total bonding capacity. Outstanding bonded indebtedness includes that part of general obligation bonds, Mello-Roos Bonds, School Facility Improvement District Bonds and certificates of participation which the district is paying a debt service that was issued for capital outlay school facility purposes.
- (2) The district had a successful registered voter bond election for at least the maximum amount allowed under Proposition 39 within the previous two years from the date of request for financial hardship status. The proceeds from the bond election that represent the maximum amount allowed under the provisions of Proposition 39 must be used to fund the district's matching share requirement for SFP project(s).
- (3) It is a County Superintendent of Schools.
- (4) The district's total bonding capacity at the time of the request for financial hardship status is \$3 5 million or less.
- (5) Other evidence of reasonable effort as approved by the SAB.

If the district's request for financial hardship status is denied by the Board, the district shall be deemed eligible for rental payments of \$2,000 per year per classroom under the Emergency School Classroom Law of 1979 for a two year period. The number of classrooms eligible for the \$2,000 rental payments shall be the sum of the numbers determined in (b)(5)(B) as follows:

- (A) Determine the number of pupils by grade level that the district requested a New Construction Grant on the *Application for Funding*, Form SAB 50-04 (Rev. 07/02) that were denied financial hardship status.
- (B) Divide the number by grade level determined in (b)(5)(A) by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

If the district meets the financial hardship requirements in this Section, the amount of financial hardship is equal to the district's matching share less funds deemed available in (a).

Once a district has been notified by the OPSC that it meets the requirements of financial hardship in this Section, the district may file an *Application for Funding*, Form SAB 50-04 (Revised 07/02) under the provisions of financial hardship anytime within a period of 180 calendar days from the date of the OPSC notification.

If the district does not submit an *Application for Funding*, Form SAB 50-04 (Rev. 09/04 02) under the provisions of financial hardship within 180 calendar days of the OPSC notification of approval of financial hardship status, the district must re-qualify for financial hardship status under the provisions of this Section by submittal of a new request for financial hardship status.

If the district submits an *Application for Funding*, Form SAB 50-04 (Rev. 079/ 02) within 180 calendar days of the OPSC notification of approval of financial hardship and the project(s) has been included on an unfunded list for more than 180 calendar days, a review of the district's funds pursuant to (a) will be made to determine if additional district funds are available to fund the district's matching share of the project(s).

Financial hardship approval status by the OPSC for a separate design and/or site apportionment does not apply to any subsequent funding for the project(s).

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17075.10 and 17075.15, Education Code.

#### Section 1859.81.1. Separate Apportionment for Site Acquisition and Design Costs.

A district that meets the financial hardship criteria in Section 1859.81 is eligible for the following:

- (a) For a new construction project, a separate apportionment for site acquisition when all the following requirements are met:
  - (1) The district has eligibility for grants that equal at least 50 percent of the CDE master plan capacity of the site.

- (2) The district has received a contingent site approval letter from the CDE indicating that the proposed site is the best available.
- (3) The district has obtained a preliminary appraisal of the property by a qualified appraiser utilizing criteria outlined in Section 1859.74.1. This report may be made without access to the site.
- (b) If the conditions in (a) are met, the Board will apportion all the following less any district funds available for the project pursuant to Section 1859.81(a):
  - (1) An amount not to exceed 100 percent of the lesser of the preliminary appraised value of the site as determined by Section 1859.74.1 or the amount the district reasonably expects to pay for the site including any hazardous material clean-up.
  - (2) The estimated relocation expenses that will conform to Title 25, California Code of Regulations, Section 6000, et seq. The reasonable and necessary relocation costs for purchasing fixtures and equipment, personal property, new machinery/equipment, and the installation of any improvements at the replacement residence or business location may be included as relocation assistance.
  - (3) Four percent of the lesser of the preliminary appraised value of the site or the amount the district reasonably expects to pay for the site acquisition including any hazardous material clean-up but not less than \$50,000.
  - (4) The estimated DTSC costs for review, approval, and oversight of the POESA and the PEA.
- (c) For new construction projects, the Board will apportion an amount not to exceed 40 percent of the new construction grant less any district funds available for the project pursuant to Section 1859.81(a). For modernization projects, the Board will apportion an amount not to exceed the following:
  - (1) If the Approved Application is received on or before March 15, 2002, 20 percent of the modernization grant less any district funds available for the project pursuant to Section 1859.81(a).
  - (2) If the Approved Application is received after March 15, 2002, 25 percent of the modernization grant less any district funds available for the project pursuant to Section 1859.81(a).

The amount apportioned is an estimate of the funds needed for design, engineering, and other pre-construction project costs.

Qualifying districts may request a separate apportionment for the design and for site acquisition for the same new construction project.

The amount provided as a separate apportionment shall be offset from the New Construction Adjusted Grant or the Modernization Adjusted Grant amount the district would otherwise be eligible for pursuant to Sections 1859.70 and 1859.81 when the district submits an *Application For Funding*, Form SAB 50-04 (Revised 07/02). A district seeking a separate apportionment for site acquisition or design costs shall submit an *Application for Funding*, Form SAB 50-04 (Revised 07/02). If a new construction project received a previous design apportionment, the district may request an additional design apportionment for that project up to the 40 percent maximum design apportionment allowed pursuant to this Section.

The *Application For Funding*, Form SAB 50-04 (Revised 07/02) that is subsequently submitted for the New Construction Adjusted Grant must be for at least 50 percent of the New Construction Grant the district requested as a separate design apportionment.

The *Application For Funding*, Form SAB 50-04 (Revised 07/02) that is subsequently submitted for the Modernization Adjusted Grant must be for at least 80 percent of the Modernization Grant the district requested as a separate design apportionment that was received on or before March 15, 2002.

The *Application For Funding*, Form SAB 50-04 (Revised 07/02) that is subsequently submitted for the Modernization Adjusted Grant must be for at least 60 percent of the Modernization Grant the district requested as a separate design apportionment that was received after March 15, 2002.

When the Board is accepting applications pursuant to Section 1859.95, the funding of the new construction or modernization grant may be made from funds set aside by the Board for financial hardship. The amount provided

as a separate apportionment shall be adjusted at a future date [see *Application for Funding*, Form SAB 50-04 (Rev. 07/02)] to assure that hardship funding for the project does not exceed the amount the district was otherwise eligible to receive.

Note: Authority cited: Sections 17070.35, 17072.13 and 17075.15, Education Code.  
Reference: Sections 17072.20, 17072.33, 17074.15 and 17074.16 Education Code.

#### Section 1859.82. Facility Hardship ~~Grant~~.

A district is eligible for facility hardship grant funding to replace or construct new classrooms and related facilities if the district demonstrates there is an unmet need for pupil housing or the condition of the facilities, or the lack of facilities, is a threat to the health and safety of the pupils. A facility hardship is available for:

- (a) New classrooms and/or subsidiary facilities (corridors, toilets, kitchens and other non-classroom space) or replacement facilities if either (1) or (2) are met:
- (1) The facilities are needed to ensure the health and safety of the pupils if the district can demonstrate to the satisfaction of the Board that the health and safety of the pupils is at risk. Factors to be considered by the Board shall include the close proximity to a major freeway, airport, electrical facility, high power transmission lines, dam, pipeline, industrial facility, adverse air quality emission or other health and safety risks, including structural deficiencies required by the Division of the State Architect to be repaired, traffic safety or because the pupils reside in remote areas of the district and transportation to existing facilities is not possible or poses a health and safety risk.

If the request is for replacement facilities, a cost/benefit analysis must be prepared by the district and submitted to the OPSC that indicates the total costs to remain in the classroom or related facility and mitigate the problem is at least 50 percent of the Current Replacement Cost of the classroom or related facility. The cost/benefit analysis may include applicable site development costs as outlined in Section 1859.76. If the cost to remain in the classroom or related facility is less than 50 percent of the Current Replacement Cost, the district may qualify for an Modernization ~~Excessive e~~ Cost Hardship ~~modernization g~~ Grant for rehabilitation costs pursuant to Section 1859.83 (e).

If the request is for replacement facilities that included structural deficiencies, the cost/benefit analysis must also include a report from a licensed design professional identifying the minimum work necessary to obtain Division of the State Architect approval. The report must contain a detailed cost estimate of the repairs. The report and cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Construction Cost Publication and, at the OPSC's discretion, the Division of the State Architect.

- (2) The classroom or related facility was lost or destroyed as a result of a disaster such as fire, flood or earthquake and the district has demonstrated satisfactorily to the Board that the classroom or related facility was uninsurable or the cost for insurance was prohibitive.

If the district qualifies for a new or replacement school pursuant to either (1) or (2) above, the district is eligible for a New Construction Grant as a new construction project for the lesser of the pupils housed in the replaced facility based on loading standards pursuant to Education Code Section 17071.25(a)(2) or the latest CBEDS enrollment at the site.

If the district qualifies for replacement facilities on the same site pursuant to either (1) or (2) above, the district is eligible for funding as a new construction project. Replacement facilities shall be allowed in accordance with the square footage amounts provided in the chart in Section (b) below. If the facility eligible for replacement is not shown in the chart in Section (b) below, the replacement facility shall be limited to the square footage replaced. The grant amount provided shall be ~~\$153.30~~ 173.30 per square foot for ~~T~~toilet ~~F~~facilities and ~~\$78.30~~ 96.30 per square foot for all other facilities. A New Construction Additional g Grants may be provided for applicable site development costs pursuant to Section 1859.76, and New Construction e~~Excessive e~~Cost Hardship g~~Grants(s)~~ pursuant to Section 1859.83(a),(b) or (d), therapy room pursuant to Section 1859.72, multilevel construction pursuant to Section

1859.73 and project assistance pursuant to Section 1859.73.1. The amounts shown will be adjusted annually in the manner prescribed in Section 1859.71.

Any grants provided pursuant to either (1) or (2) above will be reduced for any space deemed available by the Board in the district, or the HSAA or Super HSAA that could be used to house some or all of the displaced pupils, fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities.

- (b) A multi-purpose room, toilet, gymnasium, school administration or library/media center, facility that meets all the following:
- (1) The facility was lost or destroyed as a result of a disaster, including but not limited to fire, flood or earthquake.
  - (2) The facility is no longer useable for school purposes as recommended by the California Department of Education and approved by the Board.
  - (3) The district has demonstrated satisfactorily to the Board that the facility was uninsurable or the cost of insurance was prohibitive.

If the district qualifies, the district is eligible for funding as a new construction project. The funding amount provided shall be ~~\$78.30~~ 96.30 per square foot for library/media center, school administration, gymnasium and multi-purpose facilities, and/or ~~\$153.30~~ 173.30 per square foot for ~~Toilet Facilities~~. A New Construction Additional Grants may be provided for applicable site development costs pursuant to Section 1859.76, and New Construction Excessive eCost Hardship Grants(s) pursuant to Section 1859.83(a) and (d), therapy room pursuant to Section 1859.72, multilevel construction pursuant to Section 1859.73 and project assistance pursuant to Section 1859.73.1. The amounts shown will be adjusted annually in the manner prescribed in Section 1859.71.

Any grants provided pursuant to (b) above, shall be reduced by fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities.

The square footage provided, after accounting for all useable facilities on the site, shall not exceed the following:

Facility	Elementary School Pupils	Middle School Pupils	High School Pupils
Multi-Purpose (includes food service)	5.3 sq. ft. per pupil minimum <del>3,500</del> <u>4,000</u> sq. ft.	5.3 sq. ft. per pupil minimum <del>4,500</del> <u>5,000</u> sq. ft.	6.3 sq. ft. per pupil minimum <del>7,500</del> <u>8,200</u> sq. ft.
Mech./Elect.	<del>0.3</del> sq. ft. per pupil minimum 100 sq. ft.	<del>0.3</del> sq. ft. per pupil minimum 100 sq. ft.	<del>0.3</del> sq. ft. per pupil minimum 100 sq. ft.
Food Service	2 sq. ft. per pupil minimum 400 sq. ft. maximum 1,480 sq. ft.	2 sq. ft. per pupil minimum 400 sq. ft. maximum 1,880 sq. ft.	3 sq. ft. per pupil minimum 600 sq. ft. maximum 3,975 sq. ft.
Toilet	3 sq. ft. per pupil minimum 300 sq. ft.	4 sq. ft. per pupil minimum 300 sq. ft.	5 sq. ft. per pupil minimum 300 sq. ft.
Gymnasium (includes shower/locker)	N/A	7 <del>12.9</del> <u>12.9</u> sq. ft. per pupil minimum <del>5828</del> <u>6,828</u> sq. ft. maximum 16,000 sq.ft.	8 <del>15.3</del> <u>15.3</u> sq. ft. per pupil minimum <del>7280</del> <u>8,380</u> sq. ft. maximum 18,000 sq. ft.
Shower/Locker	N/A	4 sq. ft. per pupil minimum 400 sq. ft.	5 sq. ft. per pupil minimum 500 sq. ft.
P.E. Office	N/A	50 sq. ft./coach	50 sq. ft./coach

P.E. Storage	N/A	0.5 sq. ft. per pupil minimum 500 sq. ft.	0.5 sq. ft. per pupil minimum 500 sq. ft.
Bleachers	N/A	0.9 sq. ft. per pupil maximum 1820 sq. ft.	1.3 sq. ft. per pupil maximum 2600 sq. ft.
Mech/Elect	N/A	0.3 sq. ft. per pupil minimum 100 sq. ft.	0.3 sq. ft. per pupil minimum 100 sq. ft.
School Administration	3 sq. ft. per pupil minimum 600 sq. ft.	3 sq. ft. per pupil minimum 600 sq. ft.	4 sq. ft. per pupil minimum 800 sq. ft.
Library/Media Center	2.3 sq. ft. per pupil + plus 600 sq. ft.	3.3 sq. ft. per pupil + plus 600 sq. ft.	4.3 sq. ft. per pupil + plus 600 sq. ft.

Any facilities eligible for facility hardship not shown in the above chart shall be eligible for replacement square footage equal to the facilities replaced.

A district may request a determination of eligibility for facility hardship funding in advance of project funding.

(c) A district seeking replaced facilities as a result of either (a) or (b) above must submit an *Application For Funding*, Form SAB 50-04 (Revised 07 09 / 02) for the replaced facilities:

- (1) Within 18 months if the replacement facilities will be located on the same site.
- (2) Within 24 months if the replacement facilities will be located on a replacement site.

If an Approved Application for the replaced facility is not accepted within the time periods identified in (c)(1) or (c)(2) above, the Board shall re-review the criteria submitted by the district for replacement of the facility prior to apportionment of the replaced facility.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17074.56, 17075.10 and 17075.15, Education Code.

#### Section 1859.83. Excessive Cost Hardship Grant.

In addition to the SFP New Construction Grant funding, ~~and the Modernization Grant funding and Joint-Use Grant funding~~, a district is eligible for an additional funding as a result of unusual circumstances that created excessive project costs beyond the control of the district. The ~~e~~Excessive ~~e~~ Cost Hardship G grant shall be based on any of the following:

(a) Excessive Cost due to Geographic Location.

A district with a project that is located in a geographic area designated in the Geographic Percentage Chart below is eligible for ~~and may request, as part of its application for a SFP new construction or modernization grant, to have the grant amounts increased by the indicated percentage factor and funded as an E~~ excessive ~~C~~ cost ~~H~~ardship Grant determined by multiplying the indicated percentage factor shown in the Geographic Percentage Chart below by the following eligible grant amounts: -

- (1) The New Construction Grant provided by Subdivision (a) of Education Code Section 17072.10 including the adjustment authorized by Section 1859.71.
- (2) The New Construction Grant provided for Individuals With Exceptional Needs pursuant to Section 1859.71.1.
- (3) The Modernization Grant provided by Subdivision (a) of Education Code Section 17074.10 including the adjustment authorized by Section 1859.78.
- (4) The Modernization Grant provided for Individuals With Exceptional Needs pursuant to Section 1859.78.3.
- (5) The Modernization Grant provided for pupils housed in 50 year or older buildings authorized by Section 1859.78.6.

- (6) New Construction Additional Grant(s) provided by Sections 1859.71.2, 1859.71.3, 1859.72, 1859.73 and 1859.73.2.
- (7) The Modernization Additional Grant provided by Section 1859.78.4 and 1859.78.5.
- (8) New Construction Facility Hardship Grant provided by Section 1859.82 (a) or (b).
- (9) Excessive Cost Hardship Grant(s) provided by Section 1859.83 (b),(c),(d) and (f).
- (10) Joint-Use Grant(s) provided by Section 1859.125(a)(1)(A), (a)(1)(B), (a)(2)(A), (a)(2)(B), (b)(1) and (b)(2).

#### GEOGRAPHIC PERCENTAGE CHART

COUNTY	% FACTOR	DESCRIPTION
Alpine	5	The entire county.
Amador, Eastern Part	5	All of Amador County except the portion lying west of a line drawn five miles east of, and paralleling State Highway 49.
Butte, Eastern Part	5	All of Butte County except that portion lying west of a line drawn ten miles east of, and paralleling State Highway 99.
Calaveras, Eastern Part	5	All of Calaveras County except that portion lying west of State Highway 49.
Del Norte	5	The entire county.
El Dorado, Eastern Part	15	That portion lying east of a north-south line drawn 25 miles west of the Nevada State Line and north to the county line and south to State Highway 88.
El Dorado	5	El Dorado County except the eastern part and the following areas: <ul style="list-style-type: none"> <li>• West of a line drawn six miles east of and paralleling State Highway 49.</li> <li>• Within five miles of either side of U.S. highway 50 from the western county line to a point on the eastern limit of the community of Pollock Pines.</li> <li>• West of a line drawn three miles easterly from and paralleling a certain county road described as the Pleasant Valley Road which connects the community of Aukum with Diamond Springs and with the city of Plymouth.</li> </ul>
Fresno, Eastern Part	5	All of Fresno County lying east of a line drawn ten miles east of, and paralleling the west boundary of the Sierra National Forest.
Glenn, Western Part	5	All of Glenn County except that portion lying east of a line drawn ten miles west of, and paralleling Interstate Highway 5.
Humboldt, Redwood Highway	5	That portion of Humboldt County situated within five miles of the Redwood Highway (U.S. 101) except for that portion situated within ten miles of the Redwood Highway from the northern boundary of the community of Trinidad to the southern boundary of the community of Rio Dell.
Humboldt, State Highway 299 and Vicinity	5	That portion of Humboldt County situated within five miles of State Highway 299 and State route 96, except for those portions situated within ten miles of the Redwood Highway (U.S. 101) from the northern boundary of the community of Trinidad to the southern boundary of the community of Rio Dell.
Humboldt, Southeastern Part	15	That portion of Humboldt county adjacent to or east of, the road between Harris to Blocksburg to a point ten miles north of Blocksburg.
Humboldt, Residual Area	10	All areas of Humboldt County not classified in other cost groups except for that portion situated within ten miles of the Redwood Highway from the northern boundary of the community of Trinidad to the southern boundary of the community of Rio Dell.
Imperial	5	The entire county.
Inyo, Southeastern	20	That portion of Inyo County situated east of the western boundary of the Death Valley National Monument from the northern boundary of said national monument



Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

COUNTY	% FACTOR	DESCRIPTION
Part		to the southern boundary of the county.
Inyo, Residual Area	5	All of Inyo County except the southeastern part described above.
Kern, Eastern Part	5	That portion of Kern County lying east of a north-south line drawn through the eastern boundary of the town of Tehachapi.
Lake	5	The entire county.
Lassen, Southern Part	10	That portion of Lassen County lying south of an east-west line drawn through a point ten miles north of Susanville.
Lassen, Northern Part	15	All of Lassen County except the southern part described above.
Los Angeles, Santa Catalina Island only	*	The entire Santa Catalina Island.
Madera, Central Part	5	That portion of Madera County lying between a line drawn ten miles west of, and paralleling the western boundary of the Sierra National Forest and a line drawn ten miles east of and paralleling the western boundary of the Sierra National Forest.
Madera, Eastern Part	5	All of Madera County except the western part and the central part described above.
Mariposa, Eastern Part	5	All of Mariposa County except that portion lying west of: <ul style="list-style-type: none"> <li>• A line drawn five miles east of, and paralleling State Highway 49 from the northern county line to Mormon's Bar; and</li> <li>• A line drawn ten miles west of, and paralleling the western boundary of the Sierra National Forest from a point due east of Mormon's Bar to the southern county line.</li> </ul>
Mendocino, Fort Bragg Area	10	Those portions of Mendocino County lying west of the Southern Redwood Highway Area, and south of the Ten Mile River.
Mendocino, Northern Redwood Highway Area	5	That portion of Mendocino County situated within five airline miles of the Redwood Highway (U.S. 101) from a point ten miles north of the Willits City Hall to the northern boundary of the county.
Mendocino, Residual Area	10	Those portions of Mendocino County not otherwise classified except that portion situated within ten airline miles of the Redwood Highway (U.S. 101) from a point ten miles north of the Willits City Hall to the southern boundary of the county. (Comprises the Northeastern part of the county and the coastal strip in the northwestern part).
Modoc	15	The entire county.
Mono	20	The entire county.
Monterey, Southern Part	5	All Monterey County except that portion lying north of an east-west line beginning on the coast two miles south of the City of Carmel and extending due east to the eastern boundary of the county.
Nevada	5	That portion of Nevada County not included in the Eastern Part.
Nevada, Eastern Part	15	That portion lying east of a north-south line drawn 25 miles west of the Nevada State Line and north to the county line and south to the county line.
Placer, Eastern Part	15	That portion lying east of a north-south line drawn 25 miles west of the Nevada State Line and north to the county line and south to the county line.
Placer, Northeastern	5	All of Placer County except the Eastern Part and the following: <ul style="list-style-type: none"> <li>• Within five miles of either side of State Highway 65 from the southern boundary</li> </ul>

COUNTY	% FACTOR	DESCRIPTION
Part		<p>of the county and the northern limit of the community of Lincoln.</p> <ul style="list-style-type: none"> <li>• Five miles either side of Interstate 80 from the southern boundary of the county and the northern limit of the community of Penryn.</li> <li>• West of a line drawn five miles east of, and paralleling State Highway 49.</li> <li>• Within five miles of either side of Interstate 80 between the northern limit of the community of Penryn and the northern limit of the community of Colfax.</li> </ul>
Plumas	5	The entire county.
Riverside, Eastern Part	20	That portion lying east of a north-south line drawn 50 miles west of the Arizona State Line and north to the county line and south to the county line.
Riverside, Central Part	5	That portion of Riverside County lying east of a north-south line drawn through the intersection of Interstate 10 and Fields Road extending from the southern county line of Riverside County, north to the southern county line of San Bernardino County to the Eastern Part of the County.
San Benito, Southern Part	5	All of San Benito County except that portion lying north of an east-west line drawn across the county from a point two miles south of the community of Paicines.
San Bernardino, Northeastern	5	That portion of San Bernardino County lying north and east of an east-west line drawn two miles north of Oro Grande, extending from the western boundary of the county to its intersection with the northerly extension of, and thence along a line drawn through the following points: A point five miles east of Victorville, the eastern edge of the communities of Running Springs and Camp Angelus then due south to the San Bernardino County line.
San Bernardino, Eastern Part	20	That portion lying east of a north-south line drawn 150 miles west of the Arizona State Line and north to the county line and south to the county line.
San Diego, Northeastern Part	10	That portion of San Diego County lying east of a north-south line drawn ten miles east of the community of Julian, said line extending from the northern boundary of the county to its intersection with an east-west line extending from the eastern boundary of the county to its intersection with the aforesaid north-south line, said east-west line being at its closest point, three miles due north of the community of Mount Laguna.
San Mateo, Southwestern Part	5	That portion of San Mateo County lying more than two miles westerly from the nearest point on Skyline Boulevard and south of an east-west line drawn through a point two miles north of the community of Montara.
Santa Cruz, Northwestern Part	5	That portion of the Santa Cruz County lying northerly and westerly from a line drawn from a point one mile north of Swanton on the coast through a point one mile north of Brookdale and situated more than two miles from the nearest point on the eastern boundary of the county.
Shasta, except Valley Area	5	All of Shasta County except that portion lying south of Shasta Lake and situated within ten miles of Interstate Highway 5.
Sierra	5	The entire county.
Siskiyou, Central Part	15	That portion of Siskiyou County situated within ten miles of U.S. Highway 97 from Grass Lake to the Oregon State Line.
Siskiyou, Salmon River	25	All of the drainage area of the Salmon River (including the North and South Forks) except that portion situated within the Somes Bar Area described below.
Siskiyou, Somes Bar Area	20	Those portions of the drainage areas of the Salmon and Klamath Rivers located within the boundaries of the Junction Elementary School District.
Siskiyou, Western Part	15	That portion of Siskiyou County lying westerly from a line drawn ten miles west of and parallel to Interstate 5, except the Somes Bar and Salmon River areas

COUNTY	% FACTOR	DESCRIPTION
		described above.
Siskiyou, Yreka and Residual Area	5	All of Siskiyou County except the Salmon River, Somes Bar and Western areas described above.
Sonoma, Northwestern Part	5	That portion of Sonoma County enclosed by a line following the northern boundary of the county from the Pacific Ocean to a point 15 miles inland, thence southerly to a point two miles west of the community of Los Lomas, thence southerly to a point on the coast two miles south of the community of Fort Ross, thence northerly along the coast line to the northern boundary of the county.
Tehama, Residual Area	5	All of Tehama County except those portions situated within ten miles west of Interstate Highway 5 from the north county line to the southern county line; within ten miles east of Interstate Highway 5 from the north county line southward to a point east of Red Bluff, thence within ten miles east of and paralleling State Highway 99 southward to the county line.
Trinity, Residual Area	15	All of Trinity County except the State Highway 299 area described below.
Trinity, State Highway 299	10	That portion of Trinity County situated within five miles of State Highway 299.
Tulare, Eastern Part	5	That portion of Tulare County lying east of a north-south line drawn through the western limits of the community of Silver City.
Tuolumne, Eastern Part	5	All of Tuolumne County except that portion lying west of State Highway 49.
Yuba, Northeastern Part	5	All of Yuba County except that portion lying west of a line drawn ten miles east of, and paralleling State Highway 65 and that portion lying south of a line drawn three miles north of, and paralleling State Highway 20.

\*As specifically approved by the Board.

- (b) Excessive Cost for Projects that House No More than 200 Pupils (Small Size Projects).
- (1) ~~A New Construction or Modernization Grant~~ Excluding Joint-Use Projects, if the project will be increased by 12 percent for a project that will house less than 101 pupils, the district is eligible for an Excessive Cost Hardship Grant equal to 12 percent of the funding provided by the New Construction Grant or 12 percent of the funding provided by the Modernization Grant.
  - (2) Excluding Joint-Use Projects, if the project will house between 101 and 200 pupils, the district is eligible for an Excessive Cost Hardship Grant equal to four percent of the funding provided by the New Construction Grant or four percent of the funding provided by the Modernization Grant.  
~~or by four percent if the project will house no more 200 pupils.~~
  - (3) A Type I and II Joint-Use Project is eligible for an Excessive Cost Hardship Grant equal to:
    - (A) 12 percent of the funding provided by Section 1859.125 if the Qualifying SFP New Construction Project pursuant to Section 1859.123 will house less than 101 pupils.
    - (B) Four percent of the funding provided by Section 1859.125 if the Qualifying SFP New Construction Project pursuant to Section 1859.123 will house between 101 and 200 pupils.
  - (4) A Type III Joint-Use Project is eligible for an Excessive Cost Hardship Grant equal to eight percent of the funding provided by Sections 1859.125.
- (c) Excessive Cost to Construct a New School Project.  
~~A New Construction Grant~~ If the project is for a new elementary, middle or high school on a site with no existing school facilities the district is eligible for a New Construction Excessive Cost Hardship Grant equal to shall be increased by the difference in the amount provided for by the New Construction Grant and the

amount shown below, based on the number of classrooms, including classrooms used for Individuals with Exceptional Needs, in the project:

Class-rooms in project	Elementary School pupils	Middle School Pupils	High School School pupils
1	\$160,000	\$674,000	\$1,466,000
2	\$377,000	\$756,000	\$1,525,000
3	\$566,000	\$840,000	\$1,885,000
4	\$717,000	\$932,000	\$2,205,000
5	\$842,000	\$1,028,000	\$2,428,000
6	\$1,021,000	\$1,125,000	\$2,651,000
7	\$1,202,000	\$1,222,000	\$2,874,000
8	\$1,341,000	\$1,328,000	\$3,046,000
9	\$1,341,000	\$1,440,000	\$3,184,000
10	\$1,577,000	\$1,553,000	\$3,321,000
11	\$1,577,000	\$1,666,000	\$3,459,000
12	\$1,660,000		\$3,585,000
13			\$3,709,000
14			\$3,833,000
15			\$3,958,000
16			\$4,082,000
17			\$4,207,000
18			\$4,331,000
19			\$4,455,000
20			\$4,580,000
21			\$4,704,000
22			\$4,828,000

The amounts shown above will be adjusted annually in the manner prescribed in Section 1859.71.

Any Excessive Cost Hardship Grant funds provided under this subsection for a new school project shall be offset against future New Construction Grant funds provided for that same school. The amount of the offset shall be determined by dividing the additional New Construction Grant pupil request by the difference in the New Construction Grant pupil request when the initial Excessive Cost Hardship Grant was made and 325 for an elementary school, 324 for a middle school, and 621 for a high school project and multiplying the quotient by the Excessive Cost Hardship Grant funds provided under this subsection for that project.

(d) Excessive Cost Due to Urban Location, Security Requirements and Impacted Site.

(1) Excluding Joint-Use Projects, the district is eligible for an A New Construction Excessive Cost Hardship or Modernization Grant will be increased if site acreage for the project is:

(1)

(A) at least 50 percent but less than 75 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship or Modernization Grant is equal to will be increased by eight percent of the New Construction Grant and eight percent of the excessive costs authorized by Section 1859.83 (b) and (c). The Modernization Excessive Cost Hardship Grant is equal to eight percent of the Modernization Grant and eight percent of the excessive cost authorized by Section 1859.83 (b).

(2)

- (B) at least 30 percent but less than 50 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction ~~Excessive Cost Hardship or Modernization Grant is equal to will be increased by~~ 15 percent of the New Construction Grant and 15 percent of the excessive costs authorized by Section 1859.83 (b) and (c). The Modernization Excessive Cost Hardship Grant is equal to 15 percent of the Modernization Grant and 15 percent of the excessive cost authorized by Section 1859.83 (b).
- (3)
- (C) less than 30 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction ~~Excessive Cost Hardship Grant will be increased by~~ is equal to 50 percent of the New Construction Grant and 50 percent of the excessive costs authorized by Section 1859.83 (b) and (c).
- (4)
- (D) Less than 30 percent of the site size recommended by the CDE for the master planned project capacity. The Modernization ~~Excessive Cost Hardship Grant is equal to modernization Grant will be increased by~~ 25 percent of the Modernization Grant and 25 percent of the excessive cost authorized by Section 1859.83 (b).
- (2) For Joint-Use Projects, the district is eligible for an Excessive Cost Hardship Grant if the site acreage of the Qualifying SFP New Construction Project pursuant to Section 1859.123 and any existing site acreage, if applicable, is:
- (A) at least 50 percent but less than 75 percent of the site size recommended by the CDE for the master planned project capacity. The Excessive Cost Hardship Grant is equal to eight percent of the funding provided by Section 1859.125.
- (B) at least 30 percent but less than 50 percent of the site size recommended by the CDE for the master planned project capacity. The Excessive Cost Hardship Grant is equal to 15 percent of the funding provided by Section 1859.125.
- (C) less than 30 percent of the site size recommended by the CDE for the master planned project capacity. The Excessive Cost Hardship Grant is equal to 50 percent of the funding provided by Section 1859.125.
- (e) Excessive Cost for rehabilitation of facilities the Board has determined are a health and safety risk to the pupils pursuant to Section 1859.82 (a) (1) and the cost/benefit analysis to mitigate the problem and remain in the facility is less than 50 percent of the Current Replacement Cost of the facility. If the district qualifies, the district is eligible for funding of rehabilitation costs as a modernization project. If the Approved Application is received on or before March 15, 2002, the grant amount provided is 80 percent of the amount of the cost estimate required in Section 1859.82 (a) (1) that has been reviewed by the OPSC and approved by the Board. If the Approved Application is received after March 15, 2002, the grant amount provided is 60 percent of the amount of the cost estimate required in Section 1859.82 (a) (1) that has been reviewed by the OPSC and approved by the Board.
- (f) Excessive cost due to handicapped access and fire code requirements:
- (1) The district is eligible for a Modernization Excessive Cost Hardship Grant equal to ~~A modernization grant will be increased by~~ three percent of the Modernization Grant for handicapped access and fire code requirements.
- (2) ~~A modernization grant will be increased by~~ The district is eligible for a Modernization Excessive Cost Hardship Grant of:
- (A) \$80,000 for each new two-stop elevator required to be included in the project by the Division of the State Architect (DSA) if the Approved Application was received on or before March 15, 2002.
- (B) \$60,000 for each new two-stop elevator required to be included in the project by the Division of the State Architect (DSA) if the Approved Application is received after March 15, 2002.
- The amounts shown in (A) and (B) shall be adjusted annually in the manner prescribed in Section 1859.71.
- (3) ~~A modernization grant will be increased by~~ The district is eligible for a Modernization Excessive Cost Hardship Grant of:
- (A) \$14,400 for each additional stop of the new elevator required in (2) above if the Approved Application is received on or before March 15, 2002.
- (B) \$10,800 for each additional stop of the new elevator required in (2) above if the Approved Application was

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

received after March 15, 2002.

The amounts shown in (A) and (B) shall be adjusted annually in the manner prescribed in Section 1859.71.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17074.15, 17074.16, 17075.10, ~~and 17075.15~~ 17077.40, 17077.42 and 17077.45, Education Code.

## Article 10. Fund Release and Priority Points

### Section 1859.90. Fund Release Process.

With the exception of an apportionment made pursuant to Section 1859.81.1(c), the OPSC will release State funds that have been apportioned by the Board to the district after submittal, by the district, of the *Fund Release Authorization*, Form SAB 50-05 (Revised ~~01/01~~ 09/02), which is incorporated by reference. With the exception of an apportionment made for a Type III Joint-Use Project pursuant to Article 12 of these Regulations, a district must submit the *Fund Release Authorization*, Form SAB 50-05 (Revised ~~01/01~~ 09/02), within 18 months of the Apportionment of the SFP grant for the project or the entire New Construction Adjusted Grant, ~~or~~ Modernization Adjusted Grant or Type I or II Joint-Use Project apportionment shall be rescinded without further Board action, and the pupils housed in the project, if applicable, will be added back to the district's baseline eligibility. The district may refile a new application for the project subject to district eligibility and priority funding at the time of resubmittal.

If the apportionment was made for a Type III Joint-Use Project pursuant to Article 12 of these Regulations, the district must submit the *Fund Release Authorization*, Form SAB 50-05 (Revised 09/02), within 18 months of the date the plans and specifications for the Joint-Use Project that have been approved by the DSA and the CDE are submitted to the OPSC or the apportionment shall be rescinded without further Board action

The OPSC will release State funds that have been apportioned by the Board pursuant to Section 1859.81.1(c) to the district within 30 calendar days of the apportionment.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.30, 17074.15 and 17076.10, 17077.40, 17077.42 and 17077.45, Education Code.

### Section 1859.91. Implementation of Priority Points Due to Insufficient State Funds.

- (a) The OPSC shall report to the Board on a monthly basis the amount of funds available for New Construction Grants and Modernization Grants and the estimated amount of Approved Applications for New Construction Grants and Modernization Grants not yet apportioned. The Board shall implement a priority point mechanism described in (b) for New Construction Grants requests when either of the following occur:
  - (1) The amount of Approved Applications for New Construction Grants and Modernization Grants not yet apportioned exceed the funds available for New Construction Grants and Modernization Grants.
  - (2) The funds available for New Construction Grants are \$300 million or less.
- (b) Once either (1) or (2) in (a) occurs, the Board shall approve and apportion the funds available for New Construction Grants requests based on the following priority point mechanism:
  - (1) From the funds available for New Construction Grants, the Board shall establish a final allotment equal to the lesser of \$450 million or the balance of the funds available for New Construction Grants, to be apportioned in accordance with (2) below. After deducting the final allotment, the Board shall divide the remaining funds into seven equal allotments, to be apportioned on a quarterly basis, commencing with the last quarter of calendar year 2000 and ending the second quarter of calendar year 2002. Quarterly apportionments are subject to the following:
    - (A) The Board shall apportion Approved Applications for New Construction Grants requests received prior to the beginning of the quarter that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List and New Construction Grants requests that meet the criteria of subsection (d),

until the funds available for New Construction Grants for that quarter are exhausted. New Construction Grants requests eligible for an apportionment shall be apportioned in the following order:

- (1) To projects that meet the criteria of subsection (d) where the Approved Application date adjusted back in time would have qualified the project for an apportionment.
- (2) To projects exempt from priority points pursuant to Section 1859.92(e).
- (3) To projects having the greatest number of priority points.
- (B) If two or more projects have the same number of priority points, those projects shall be first ranked according to the Approved Application date.
- (C) No New Construction Grants request will be recommended for apportionment unless the project can be entirely apportioned from the funds available for that quarter.
- (D) If the Approved Applications for New Construction Grants received prior to the quarter that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List prior to the quarter and New Construction Grants requests that meet the criteria of subsection (d) are less than the quarterly allotment, plus any funds remaining from the previous quarter(s), the excess funds shall be added to the next quarterly allotment.
- (E) If the Approved Applications for New Construction Grants requests received prior to the quarter that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List prior to the quarter and New Construction Grants requests that meet the criteria of subsection (d) are greater than the quarterly allotment, plus any funds remaining from the previous quarter(s), any New Construction Grants requests not apportioned by the Board shall be placed on an Unfunded List.
- (F) All New Construction Grants requests, as described in (A) above, that are Ready for Apportionment in a quarter shall not be apportioned before the last regularly scheduled Board meeting for that quarter with the exception of New Construction Grants requests that meet the criteria of subsection (b)(1)(A)(1) or (2). Any New Construction Grants request that is Ready for Apportionment in a quarter that meets the criteria of subsection (b)(1)(A)(1) or (2) may be apportioned at any of the regularly scheduled Board meetings during that quarter.
- (2) The final allotment shall be apportioned subject to the following:
  - (A) The Board shall apportion Approved Applications for New Construction Grants received between April 1, 2002 and June 26, 2002 that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List and New Construction Grants requests that meet the criteria of subsection (e), until the final allotment, plus any funds remaining from the previous quarters are exhausted. New Construction Grants requests eligible for an apportionment shall be apportioned in the following order:
    - (1) To projects that meet the criteria of subsection (e) where the Approved Application date adjusted back in time would have qualified the project for an apportionment.
    - (2) To projects exempt from priority points pursuant to Section 1859.92(e).
    - (3) To projects having the greatest number of priority points.
    - (B) If two or more projects have the same number of priority points, those projects shall be first ranked according to the Approved Application date.
    - (C) If the Approved Applications for New Construction Grants received between April 1, 2002 and June 26, 2002 that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List and New Construction Grants requests that meet the criteria of subsection (e) are greater than the final allotment, plus any remaining funds from the previous quarter(s), any New Construction Grants request not apportioned by the Board shall be placed on an Unfunded List.
    - (D) All New Construction Grants requests, as described in (A) above, that are Ready for Apportionment shall be apportioned at the regularly scheduled Board meeting in August 2002 with the exception of New Construction Grants requests that meet the criteria of subsection (b)(2)(A)(1) or (2). Any New Construction Grants request that is Ready for Apportionment that meets the criteria of subsection (b)(2)(A)(1) or (2) may be apportioned at either the regularly scheduled Board meetings in July or August 2002.
    - (E) If the Approved Applications for New Construction Grants received between April 1, 2002 and June 26, 2002 that are Ready for Apportionment, all New Construction Grants requests that were included on an Unfunded List and New Construction Grants requests that meet the criteria of subsection (e) are less than the final allotment, plus any remaining funds from the previous quarter(s), the excess funds shall be apportioned on a monthly basis beginning in September 2002 for Approved Applications for New Construction Grants received

after June 26, 2002 that are Ready for Apportionment, in descending order, commencing with the project having the greatest number of priority points. This process shall continue until the funds available are exhausted. If two or more projects have the same number of priority points, those projects shall be first ranked according to the Approved Application date.

- (c) The Board shall declare that State funds are not available for new facility construction when the New Construction Grants requests Ready for Apportionment exceed the funds available for that purpose. This declaration shall serve as the mechanism for the Board to make the appropriate notifications as required, pursuant to Government Code Section 65995.7(a).
- (d) Approved Applications for New Construction Grants requests received during a quarter may, at the discretion of the Board, be considered for funding available for that quarter or a future quarter if all the following criteria are met:
  - (1) Either the Executive Officer of the Board, the State Architect, the Director of School Facilities Planning Division within the CDE, or the Chief of the School Property Evaluation and Cleanup Division within the Department of Toxic Substances Control (DTSC) certify to the OPSC that the district's application was delayed for a specified number of calendar days in relation to other similar applications submitted to that agency at the same time.
  - (2) The Approved Application date adjusted back in time for the number of calendar days the application was delayed is prior to the beginning of the quarter in which the application was received.
- (e) Approved Applications for New Construction Grants requests received after June 25, 2002 may, at the discretion of the Board, be considered for funding available for the final allotment if all the following criteria are met:
  - (1) Either the Executive Officer of the Board, the State Architect, the Director of School Facilities Planning Division within the CDE, or the Chief of the School Property Evaluation and Cleanup Division within the DTSC certify to the OPSC that the district's application was delayed for a specified number of calendar days in relation to other similar applications submitted to that agency at the same time.
  - (2) The Approved Application date adjusted back in time for the number of calendar days the application was delayed is prior to June 27, 2002.
- (f) This Regulation shall only apply to Approved Applications for New Construction Grants funded with the proceeds of state bonds approved by the voters prior to January 1, 2002.

Note: Authority cited: Sections 17072.25 and 17070.35, Education Code.

Reference: Section 17072.25, Education Code and Section 65995.7, Government Code.

#### Section 1859.92. Priority Points For New Construction Projects.

The priority points allowed for a New Construction Grants request shall be based on the following computations rounded up to the nearest whole number. The computation shall be made on a districtwide basis if the district utilized districtwide CBEDS enrollment data reported on the *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), in effect at the time the district's application for funding was submitted to the OPSC for the project. The computation shall be made on a HSAA or Super HSAA basis if the district utilized HSAA or Super HSAA CBEDS enrollment data reported on the *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01), in effect at the time the district's application for funding was submitted to the OPSC for the project. Notwithstanding the provisions of Section 1859.41, a district that has previously reported its enrollment on a HSAA or Super HSAA basis may calculate both its eligibility and its priority points on a districtwide basis. A project shall receive priority points based on the total of (a), (b) and (c):

- (a) Priority points for the percent of unhoused pupils for both of the following:
  - (1) Six points for each percent of current unhoused pupils.
  - (2) Four points for each percent of projected unhoused pupils.
- (b) Priority points for the number of unhoused pupils for both of the following:
  - (1) One point for each 100 currently unhoused pupils.
  - (2) One point for each 200 projected unhoused pupils.
- (c) A maximum of 100 priority points for the following:



- (1) Twenty points if the district's CBEDS enrollment at the time of application submittal to the OPSC for funding is less than 2,501.
- (2) Twenty points for a County Superintendent of Schools' project that only includes classroom space solely for Non-Severely Disabled Individuals with Exceptional Needs.
- (3) Twenty points if the site acreage for the project is less than 50 percent of the site size recommended by the CDE for the master planned pupil capacity.
- (4) Twenty points for a project that either used "stock plans" pursuant to Education Code Section 17070.33(b)(6) or re-used plans that were previously used to construct at least two other schools.
- (5) Twenty points if the district's CBEDS enrollment at the time of application submittal to the OPSC for funding is less than 301.
- (6) Twenty points for a project that uses 20 percent less energy than the Energy Budget as defined and calculated in a manner consistent with the California Energy Code, Part 6, Subchapter 5, Section 141 – Performance Approach: Energy Budgets.
- (7) Twenty points for a project that is a new high school serving any grades nine through twelve.
- (8) Twenty points for a project that received financial hardship assistance pursuant to Section 1859.81.
- (9) Twenty points for a project where the site acquisition qualified and received an apportionment authorized under Section 1859.75.1, Separate Site Apportionment for Environmental Hardship.
- (10) One hundred points if the Approved Application was accepted prior to the date the priority point mechanism is implemented by the Board pursuant to Section 1859.91(a)(1) or (a)(2).
- (d) The calculation of priority points in (a), (b) and (c) above shall be determined at the time the Approved Application is accepted.
- (e) The following projects are exempt from priority points:
  - (1) A project that received Facility Hardship approval pursuant to Section 1859.82.
  - (2) A county superintendent of schools' project that includes classroom space for Severely Disabled Individuals with Exceptional Needs.
  - (3) A county superintendent of schools' project that only includes classroom space solely for community school pupils.
  - (4) A school district's project that only includes classroom space solely for Severely Disabled Individuals with Exceptional Needs.
- (f) If the project received a separate site and/or design apportionment under the provisions of the LPP or pursuant to Sections 1859.75.1 or 1859.81.1, the district's funding priority of the project shall be determined by the Approved Application date for the New Construction Grant request.
- (g) This Regulation shall only apply to Approved Applications for New Construction Grants funded with the proceeds of state bonds approved by the voters prior to January 1, 2002.

Note: Authority cited: Sections 17070.35, 17072.25 and 100420(d), Education Code.  
Reference: Sections 17072.25 and 17070.33, Education Code.

#### Section 1859.93. Modernization Projects Funding Order.

All modernization applications shall be funded in the order of receipt of an Approved Application for funding until all modernization funds available to the Board have been apportioned.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Section 17074.15, Education Code.

#### Section 1859.93.1. New Construction Project Funding Order.

All new construction applications, except those new construction applications identified in (a) and (b) below, shall be funded in the order of receipt of an Approved Application for funding.

- (a) Approved Applications for New Construction Grant(s) funded with the proceeds of state bonds approved by the voters prior to January 1, 2002.

(b) Approved Applications for New Construction Grant(s) authorized by Education Code Sections 17078.10 through 17078.30.

Note: Authority cited: Sections 17070.35 Education Code.

Reference: Sections 17072.25 and 17070.35, Education Code.

Section 1859.94. Hardship Funding.

- (a) Hardship assistance provided as a part of a New Construction Grant shall be subject to the same priority point determination as the New Construction Grant.
- (b) To the extent that hardship funds are available, the Board may elect to specifically set aside funding for financial hardship grants as provided in Section 1859.81, facility hardship grants as provided in Section 1859.82 or Excessive Cost Hardship Grants as provided in Section 1859.83.
- (c) Should a district request hardship funding for either a financial hardship grant pursuant to Section 1859.81, a facility hardship grant pursuant to Section 1859.82 or an Excessive Cost Hardship Grant pursuant to Section 1859.83 and the Board has no funds to allocate for that specific hardship, the district may elect to either:
  - (1) Accept funding for the project less any hardship funding grants that are not available. When this option is selected, the hardship funding grants not allocated for the project shall be placed on the Unfunded List. If the project was previously placed on the Unfunded List, the project shall retain the original date it was placed on that Unfunded List.
  - (2) Decline to accept funding for the project. When this option is selected, the project shall be placed on the Unfunded List. If the project was previously placed on the Unfunded List, the project shall retain the original date it was placed on that Unfunded List.

A project or portion of a new construction project not funded as a result of subdivision (c) shall be subject to the Board's priority point mechanism pursuant to Sections 1859.91 and 1859.92.

Note: Authority cited: Sections 17075.15 and 17070.35, Education Code.

Reference: Section 17075.15, Education Code.

Section 1859.95. Acceptance of Applications When Funding Is Unavailable.

When the Board has no funds to apportion or the application does not qualify for funding because of the Board's priority point mechanism pursuant to Sections 1859.91 and 1859.92, the Board will continue to accept and process applications for eligibility determination. The Board will also accept and process applications for apportionment for purposes of developing an Unfunded List based on the date the application is Ready for Apportionment.

If either the Executive Officer of the Board, the State Architect, the Director of School Facilities Planning Division within the CDE or the Chief of the School Property Evaluation and Cleanup Division within the Department of Toxic Substances Control certify to the OPSC that the district's application was delayed for a specified number of calendar days in relation to other similar applications submitted to that agency at the same time, the application may, at the discretion of the Board, receive a date on the Unfunded List or receive funding pursuant to Section 1859.91 based on the date the application is Ready for Apportionment, adjusted back in time for the number of calendar days the application was delayed.

Applications for New Construction Adjusted Grants for a project where the site was apportioned pursuant to Section 1859.75.1 shall receive a date on the Unfunded List based on the date the environmental hardship site apportionment was made for the project.

With the exception of financial hardship eligibility, a district with an application included on an Unfunded List shall not be required to re-establish eligibility for that application prior to apportionment.

An application for funding included on an Unfunded List is eligible for reimbursement subject to adjustments in the

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

New Construction Grants amount pursuant to Section 1859.77.

Note: Authority cited: Sections 17070.35 and 17072.25, Education Code.  
Reference: Section 17070.35, Education Code.

## Article 11. Miscellaneous School Facility Program Requirements

Section 1859.100. Restricted On-going and Major Maintenance Fund.

A district, regardless of size, shall certify on the *Application for Funding*, Form SAB 50-04 (Revised 09/04/02 ) or the *Application for Joint-Use Funding*, Form 50-07 (New 09/02), that a restricted account within the district's general fund has been established for the exclusive purpose of providing on-going and major repair of its facilities, pursuant to Education Code Section 17070.75.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17070.75, and 17077.40, Education Code.

Section 1859.101. Districts that are Exempt from the Specified Annual Deposit.

A district, including a county superintendent of schools, that is not required to make a specified annual deposit into the restricted maintenance account as provided in Education Code Section 17070.75 must certify on the *Application for Funding*, Form SAB 50-04 (Revised 07/02) or the *Application for Joint-Use Funding*, Form 50-07 (New 09/02), that the district can maintain its facilities with a lesser annual deposit.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17070.75 and 17077.40, Education Code.

Section 1859.102. Maintenance Plan.

A district shall certify on the *Application for Funding*, Form SAB 50-04 (Revised 07/02) or the *Application for Joint-Use Funding*, Form 50-07 (New 09/02), that it has developed and implemented an on-going and major maintenance plan in accordance with Education Code Section 17070.75 and 17070.77. In each fiscal year following the fiscal year in which the district received funds as a result of an application funded on or after January 1, 2002, the district shall certify that the plan has been reviewed and updated as required in Education Code Section 17070.77. The certification shall be made on the Deferred Maintenance Five Year Plan, which shall be required annually from those districts receiving such funding.

Any maintenance plan developed in accordance with Education Code Section 17070.75(b)(3) shall be deemed to meet the requirements for an additional basic apportionment as provided under Education Code Section 17585.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17070.75, 17070.77, 17077.40 and 17585, Education Code.

Section 1859.103. Savings.

A district may expend the savings not needed for a project on other high priority capital facility needs of the district. Savings may be declared by the district in writing to the OPSC any time after the release of all funds for the project.

The State's portion of any savings declared by the district or determined by the OPSC by audit must be used to reduce the SFP financial hardship grant of that project or other financial hardship projects within the district for a period of three years from the date the savings were declared by the district or determined by the OPSC audit. The State's portion of any savings from a new construction project or a Joint-Use Project may be used as a district matching share requirement, only on another new construction project, and the State's share of any savings from a modernization project may be used as a district matching share requirement, only on another modernization project.

Any interest earned on a financial hardship project will be treated as savings and will be used to reduce the SFP financial hardship grant for that project.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17070.63 and 17077.40, Education Code.

#### Section 1859.104. Program Reporting Requirements.

A district receiving funds in accordance with the Act shall submit the following:

- (a) An expenditure report from the district on the *Expenditure Report*, Form SAB 50-06 (Revised 01/00), which is incorporated by reference. The program reporting requirements are as follows:
  - (1) The first expenditure report shall be due one year from the date that any funds were released to the district for the project pursuant to Section 1859.90, or upon completion of the project, whichever occurs first. A project shall be deemed complete when either of the following occur:
    - (A) When the notice of completion for the project has been filed, all outstanding invoices, claims, change orders have been satisfied and the facility is currently in use by the district.
    - (B) Three years from the date of the final fund release for an elementary school project or four years from the date of the final fund release for a middle or high school project.
  - (2) The second and subsequent expenditure reports, if necessary, shall be due annually beginning one year from the first report, or upon completion of the project, whichever occurs first. The final expenditure report must be made no later than three years from the date of the final fund release for an elementary school project or four years from the date of the final fund release for a middle or high school project.
- (b) With the exception of projects that qualify for an apportionment pursuant to Section 1859.75.1, a progress report, in the form of a narrative from the district, shall be due 18 months from the date any funds were released to the district for the project pursuant to Section 1859.90. The progress report shall include information regarding the progress the district has made towards substantial completion of the project. If the funds were received in accordance with Section 1859.81.1(c) or the notice of completion has been filed within 18 months of the release of funds pursuant to Section 1859.90, or the expenditure reports required in (a)(1) or (2) indicate that substantial progress (as defined in Section 1859.105) on the project has occurred, no progress report is required.
- (c) A progress report, in the form of a narrative from the district, shall be due 12 months from the date the site acquisition funds were apportioned to the district for the project pursuant to Section 1859.75.1. The progress report shall include information regarding the progress the district has made towards acquiring the site as outlined in Section 1859.105.1 and may contain other evidence of reasonable effort to substantiate progress towards acquiring the site for purposes of an extension of the site apportionment as authorized by Education Code Section 17072.13(c)(2).

Note: Authority cited: Section 17070.35 and 17072.13, Education Code.  
Reference: Sections 17070.35, 17072.13 and 17076.10, Education Code.

#### Section 1859.104.1. Material Inaccuracy Penalties.

When the Board makes a finding that a Material Inaccuracy occurred for a New Construction, Joint-Use, Preliminary Application or a Modernization Project, the district shall be subject to the following penalties:

- (a) If the Material Inaccuracy finding occurred prior to the apportionment, the district shall be:
  - (1) Prohibited from self-certifying ~~the New Construction, or Modernization~~ Project information for a period of up to five years from the date the Board made the finding of Material Inaccuracy for the project. A prohibition from self-certification of project information may be less than five years as determined on a case-by-case basis by the Board.
  - (2) Required to file all ~~New Construction and Modernization~~ projects pursuant to Section 1859.104.2 for the time period required in subsection (a)(1).
  - (3) Subject to the fee prescribed by Section 1859.104.3.

- (b) If the Material Inaccuracy finding occurred after the apportionment but no funds have been released for the project:
  - (1) The Board shall reduce the project apportionment by the additional funding received beyond the amount the district was entitled to for the project.
  - (2) The school district shall be prohibited from self-certifying ~~New Construction or Modernization~~ Project information for a period of up to five years from the date the Board made the finding of Material Inaccuracy for the project. A prohibition from self-certification of project information may be less than five years as determined on a case-by-case basis by the Board.
  - (3) The school district shall be required to file all ~~New Construction and Modernization~~ P projects pursuant to Section 1859.104.2 for the time period required in subsection (b)(2).
  - (4) The school district shall be subject to the fee prescribed by Section 1859.104.3.
- (c) If the Material Inaccuracy finding occurred after the apportionment and funds were released for the project, the district:
  - (1) Must repay the additional funding received beyond the amount the district was entitled to for the project with interest within five years from the date the Board made the finding of Material Inaccuracy. Interest shall be assessed as prescribed in Education Code Section 17070.51(b)(1).
  - (2) Shall be prohibited from self-certifying New Construction project, Joint-Use Project or Modernization Project information for a period of up to five years from the date the Board made the finding of Material Inaccuracy for the project. A prohibition from self-certification of project information may be less than five years as determined on a case-by-case basis by the Board.
  - (3) Shall be required to file all New Construction projects, Joint-Use Projects and Modernization Projects pursuant to Section 1859.104.2 for the time period required in subsection (c)(2).
  - (4) Shall be subject to the fee prescribed by Section 1859.104.3.
  - (d) The Board may direct that adjustments to the school district's New Construction or Modernization baseline eligibility be made pursuant to Sections 1859.51 and 1859.61 based on the determination of Material Inaccuracy.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Sections 17070.51 and 17077.40, Education Code.

#### Section 1859.104.2. Self-Certification Prohibition.

If the Board has made a finding of Material Inaccuracy pursuant to Section 1859.104.1, the OPSC may request supporting documentation as it deems appropriate for any application filed after a finding of material inaccuracy for the time prescribed in 1859.104.1(a)(1), (b)(2) or (c)(2).

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Section 17070.51, Education Code.

#### Section 1859.104.3. Self-Certification Prohibition Processing Fee.

If the Board has made a finding of Material Inaccuracy pursuant to Section 1859.104.1, the Board shall charge the district an amount of \$100 per hour for the additional hours necessary to process and review the district's applications submitted during the timelines prescribed in Section 1859.104.2(a)(1), (b)(2) or (c)(2). The maximum hours subject to the fee per application is the greater of 50 hours or one percent of the enrollment of the district as reported in Part A, the continuation high pupils reported in Part B, and the special day class pupils reported in Part C of the latest *Enrollment Certification/Projection*, Form SAB 50-01 (Revised 07/01). The Board will not make a release of funds for any project subject to the fee in this section until the fee has been remitted to the OPSC. All fees collected shall be deposited in the School Facility Fund and available for apportionment as directed by the Board.

Note: Authority cited: Section 17070.35, Education Code.  
Reference: Section 17070.51, Education Code.

#### Section 1859.105. Program Accountability Progress Audit.

- (a) When the district has received funds pursuant to Sections 1859.70 or 1859.120, the Board shall conduct a review to assure the district has made substantial progress in the completion of the project pursuant to Education Code Section 17076.10(b). The review shall consist of an analysis of the district's progress report in accordance with Section 1859.104(b). Sufficient evidence of substantial progress shall be any of the following:
  - (1) At least 75 percent of all site development work that is necessary prior to building construction activity is complete.
  - (2) At least 90 percent of the building construction activities are under contract, unless the building construction activities are delayed as a result of necessary site development work.
  - (3) All construction activities are at least 50 percent complete.
  - (4) Other evidence satisfactory to the Board of circumstances beyond the control of the district that precludes substantial progress being made.
- (b) When the district has received funds pursuant to Section 1859.81.1(a), the Board shall conduct a review to assure the district has made substantial progress in the completion of the project. The audit shall consist of a review and analysis of the district's progress report in accordance with Section 1859.104(b). Acceptable evidence of substantial progress shall be when the district has completed all of the following:
  - (1) Obtained the final appraisal of the site.
  - (2) Completed all California Environmental Quality Act requirements.
  - (3) Obtained final approval of the site by the CDE.
  - (4) Provided final escrow instructions or evidence the district has filed condemnation proceedings and intends to request an order of possession of the site.
- (c) When the district has received funds pursuant to Section 1859.81.1(c), the Board shall conduct a review to assure the district has made substantial progress in the completion of the project. Sufficient evidence of substantial progress shall be submittal of an Approved Application.

After the Board has received the progress report required in Section 1859.104(b) for items (a) and (b) above, a review and analysis of the report by the OPSC will be made for compliance with this Section within 60 days of the submittal of the report by the district. The OPSC must notify the district within 60 days of the submittal of the report if it intends to recommend to the Board that no substantial progress has been made on the project. If the OPSC does not respond to the district within 60 days of submittal of the report, the OPSC concurs with the district that substantial progress has been made.

Should the OPSC respond within 60 days of submittal of the progress report by the district that no substantial progress has been made or the district fails to submit the progress report within the timelines in Section 1859.104 (b) for items (a) or (b) above or the district has not filed an Approved Application for funds received pursuant to Section 1859.81.1(b), the district must report the final expenditures on the project on the *Expenditure Report Form*, SAB 50-06 (Revised 01/00), to the OPSC within 60 days of the OPSC notification. After receipt of the expenditure report, the OPSC will recommend to the Board that a finding be made that no substantial progress on the project has been made and that the apportionment be reduced, after accounting for the district's matching share, by any funds not yet committed by a contract for the project and any interest earned on State funds for the project. The recommendation will be made at the next regularly scheduled Board meeting. If the expenditure report is not received within the 60 day period, the OPSC will recommend that the apportionment be rescinded and any interest earned on State funds be returned to the State.

If the apportionment is reduced or rescinded as a result of a finding by the Board that no substantial progress has been made on the project, the pupils assigned to the project will be added to the district's baseline eligibility. If the apportionment was reduced, the adjustment to the baseline eligibility shall reflect any funding retained by the district based on the New Construction or Modernization Adjusted Grant funding provided for the project. The district may refile a new application for the project subject to district eligibility and priority funding at the time of resubmittal.

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

Note: Authority cited: Section 17070.35 and 17072.13, Education Code.

Reference: Sections 17070.35, ~~and~~ 17076.10 and 17077.40, Education Code.

#### Section 1859.105.1. Program Accountability Environmental Hardship.

- (a) When the district has received funds pursuant to Section 1859.75.1, the Board shall conduct a review to assure the district has made progress towards acquisition of the site pursuant to Education Code Section 17072.13(c)(2). The review shall consist of an analysis of the district's progress report in accordance with Section 1859.104(c). Acceptable evidence of substantial progress shall be when the district has completed all of the following:
- (1) Obtained the final appraisal of the site.
  - (2) Completed all California Environmental Quality Act requirements.
  - (3) Obtained final approval of the site by the CDE.
  - (4) Provided final escrow instructions or evidence the district has filed condemnation proceedings and intends to request an order of possession of the site.

After the Board has received the progress report required in Section 1859.104(c) a review and analysis of the report by the OPSC will be made for compliance with this Section within 60 days of the submittal of the report by the district. The OPSC must notify the district within 60 days of the submittal of the report if it intends to recommend to the Board that the district has not made progress towards acquiring the site. If the OPSC does not respond to the district within 60 days of submittal of the report, the OPSC concurs with the district that it has made progress towards the site acquisition.

Should the OPSC respond within 60 days of submittal of the progress report by the district that no progress has been made towards site acquisition or the district fails to submit the progress report within the timelines in Section 1859.104(c), the OPSC will recommend at the next available Board meeting that the site apportionment for the project be rescinded and that any interest earned on State funds be returned to the State. If the apportionment is rescinded as a result of a finding by the Board that no progress has been made towards acquiring the site, the pupils assigned to the project will be added to the district's baseline eligibility.

- (b) The district may request one-year extensions of the site apportionment as authorized by Education Code Section 17072.13(c)(2). Acceptable criteria for approval of an extension are any of the following:
- (1) The district has received letters from the DTSC and the CDE that indicate the agency concurs that the district is making reasonable progress towards acquisition of the site.
  - (2) Other reasonable evidence of effort the district has made towards acquiring the site as approved by the Board.

Note: Authority cited: Section 17070.35 and 17072.13, Education Code.

Reference: Sections 17070.35, 17072.13 and 17076.10, Education Code.

#### Section 1859.106. Program Accountability Expenditure Audit.

The projects will be audited to assure that the expenditures incurred by the district were made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.131 for Joint-Use Projects and Education Code Section 17074.25 and Section 1859.79.2 for modernization projects. The audit will also assure that the district complied with all site acquisition guidelines as provided in Sections 1859.74, 1859.74.1, 1859.74.2, 1859.74.4, 1859.75 and 1859.75.1.

An adjustment in the SFP grant will be made for the following:

- (a) The difference in the value of the site and the hazardous waste removal costs that were used to determine the New Construction Additional Grant and the actual amount paid by the district for the site, the relocation cost, the DTSC fee, and the costs for hazardous waste materials removal.
- (b) For 50 percent of any insurance proceeds collectable by the district for displaced facilities and 50 percent of the net proceeds available from the disposition of displaced facilities pursuant to Section 1859.82(a) or (b).

- (c) The difference in the hazardous waste removal costs that was used to determine the New Construction Additional Grant for Hazardous Waste Removal on an Existing Site and the actual amount paid by the district for the allowable cost for hazardous waste removal.

When the OPSC receives the final expenditure report from the district on *Expenditure Report*, Form SAB 50-06 (Revised 01/00), an audit of the expenditures by the OPSC shall commence within two years of the report. If the district is not notified by the OPSC within the two-year period that an audit will be made, there will be no audit of the project by the OPSC and the expenditures reported by the district shall be deemed appropriate. If the district has been notified that an audit of the expenditures will be made by the OPSC, the OPSC shall complete the audit within six months of the notification, unless additional information requested from the district has not been received.

Districts shall be required to maintain all appropriate records that support all district certifications and expenditures for all costs associated with SFP and Joint-Use projects for a period of not less than four years from the date the notice of completion is filed for the project in order to allow other agencies, including, without limitation, the Bureau of State Audits and the State Controller to perform their audit responsibilities.

For purposes of Joint-Use Projects, the district shall be responsible for obtaining and differentiating all expenditure information from the Joint-Use Partner(s) or from other local sources.

Should the OPSC conduct an audit of the district certifications or the expenditures for the project and make a finding that some or all of the expenditures were not made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.131 for Joint-Use Projects and Education Code Section 17074.25 and Section 1859.79.2 for modernization projects, the OPSC shall recommend to the Board that the apportionment be adjusted based on the audit findings. Upon adoption of the audit findings by the Board, the district must submit a warrant for any amount identified as being owed within 60 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures from the School Fund Apportionment as outlined in Education Code Section 17076.10(c).

Should the CDE make a finding that a project did not meet the standards that were adopted by the CDE pursuant to Education Code Section 17251 (b) and (c) when the district had self-certified that the project met those standards pursuant to Education Code Section 17070.50 (b), the Board may request that the CDE make a recommendation that the apportionment for the project be adjusted based on the CDE finding. Any adjustment in the apportionment shall be based on the percentage of space in the project that the CDE determined did not meet those standards. Upon adoption of the finding by the Board, the district must submit a warrant for any amount identified as being owed within 60 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures from the School Fund Apportionment as outlined in Education Code Section 17076.10 (c).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.50, 17072.18, 17072.35, 17074.25, 17076.10, 17077.40 and 17251, Education Code.

#### Section 1859.107. Amending and Withdrawal of Applications.

A funding application that received an apportionment under Chapter 12 or Chapter 12.5 may not be rescinded and re-approved under the provisions of any amended law or administrative regulation unless specifically authorized by other applicable law.

A funding application, with the exception of funding applications identified in Subsection (a) below, that has received an approval pursuant to Section 1859.95, but has not received an apportionment may receive an adjustment as allowed under Regulations 1859.71, 1859.71.2(c), 1859.78.4(b) or 1859.78 at the time the apportionment is made. If the adjustment is a result of Sections 1859.71.2(c) or 1859.78.4(b), the district must submit an amended *Application for Funding* Form SAB 50-04 (Revised 07/02). The amended application shall retain its OPSC processing date. No other adjustments may be made, including those resulting from changes to the regulations prior to final funding by



the SAB. As an alternative, the application may be withdrawn and resubmitted for SAB approval under the provisions of any amended or new regulation that becomes effective prior to the apportionment for the project. The district must first request from the OPSC that the application be withdrawn and removed from the Unfunded List. The district may then resubmit the application to the OPSC under the provisions of the amended or new regulation once it is effective. The resubmitted application will receive a new processing date by the OPSC.

A funding application, with the exception of funding applications identified in Subsection (a) below, submitted to the OPSC that has not received an approval will receive funding under the provisions of the regulations that were in effect when the application was submitted to the OPSC and any funding adjustment authorized by Sections 1859.71.2(c) or 1859.78.4(b). If the funding adjustment is a result of Sections 1859.71.2(c) or 1859.78.4(b), the district must submit an amended *Application for Funding* Form SAB 50-04 (Revised 07/02). The amended application shall retain its OPSC processing date. At the option of the district, a funding application submitted to the OPSC that has not received an approval may be withdrawn and resubmitted for SAB approval under the provisions of any amended or new regulation once it is effective. The district must request that the application be withdrawn and removed from the OPSC workload list. The resubmitted application will receive a new processing date by the OPSC.

- (a) A district that submitted an Approved Application request for either a Modernization Adjusted Grant or a Separate Design Apportionment for a modernization project pursuant to Section 1859.81.1 that meet the criteria in (1) and (2) below must submit a new *Application For Funding*, Form SAB 50-04 (Rev 07/02) that meet the criteria in Subsections (b) or (c) no later then 60 calendar days after the effective date of this Subsection:
  - (1) The Approved Application was received by the OPSC after March 15, 2002 but no later then the date this Subsection becomes effective.
  - (2) The Approved Application has not received an approval or received an approval pursuant to Section 1859.95, but has not received an apportionment.
- (b) The new *Application For Funding*, Form SAB 50-04 (Rev 07/02) identifies the same number of pupils assigned to the original project or a lesser amount that is not less than 37.5 percent of the pupils originally assigned to the project (round up). In this case, the district will be required to contribute additional funds to the project to meet the 40 percent district contribution required pursuant to Section 1859.79(b). If the project was approved as financial hardship under the provisions of Section 1859.81, the project shall maintain its financial hardship status, however, the district will be subject to a financial review pursuant to Section 1859.81(a) to determine if there are additional district funds available for the project.
- (c) The new *Application For Funding*, Form SAB 50-04 (Rev 07/02) identifies a lesser number of pupils assigned to the project that does not exceed an amount determined by multiplying the pupils assigned to the original project by 37.5 percent (round down). In this case, the district will not be required to contribute additional funds to the project to meet the 40 percent district contribution required pursuant to Section 1859.79(b).
- (d) If a new *Application For Funding*, Form SAB 50-04 (Rev 07/02) is submitted under the provisions of subsection (b), the Architect of Record or Design Professional certification made on the original *Application For Funding*, Form SAB 50-04(rev 07/01 or 09/01) will be accepted as satisfying the requirements of the new *Application For Funding*, Form SAB 50-04 (Rev 07/02).
- (e) Any Approved Application request that meets the requirements of Subdivision (a) will be withdrawn 60 calendar days after the date Subsection (a) becomes effective if the district does not submit a new *Application For Funding*, Form SAB 50-04 (Rev 07/02) conforming to either Subsections (b) or (c).

Any application for eligibility determination that has received an approval may be amended to comply with provisions of an amended or new regulation once it is effective. The amended application will receive a new processing date by the OPSC.

Any application for eligibility determination that has not received an approval may be amended at any time to conform to an amended or new regulation. The application shall retain its OPSC processing date.

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

Any application for new construction eligibility determination that has received an approval must be amended to conform to Regulation Section 1859.51(l) prior to submittal of an *Application For Funding*, Form SAB 50-04 (Revised 07/02).

Any application for new construction eligibility determination that has not received an approval must be amended to conform to the *Existing School Building Capacity*, Form SAB 50-02 (Revised 07/01) and the *Eligibility Determination*, Form SAB 50-03 (Revised 07/01) prior to submittal of an *Application For Funding*, Form SAB 50-04 (Revised 07/02).

Any application for modernization eligibility determination that has received an approval must be amended to conform to Regulation Section 1859.61(g) prior to submittal of an *Application For Funding*, Form SAB 50-04 (Revised 07/02).

Any application for modernization eligibility determination that has not received an approval must be amended to conform to the *Eligibility Determination*, Form SAB 50-03 (Revised 07/01) prior to submittal of an *Application For Funding*, Form SAB 50-04 (Revised 07/02).

Districts that have received an approval of eligibility on a HSAA or Super HSAA are not required to re-establish eligibility under the provisions of Section 1859.41(a).

Districts that have requested eligibility determination on a HSAA or Super HSAA that have not received an approval must comply with the provisions of Section 1859.41(a) prior to submittal of an *Application for Funding*, Form SAB 50-04 (Revised 07/02). The amended eligibility application shall retain its original OPSC processing date.

A district that has received an approval of its eligibility determination on a district-wide, HSAA or Super HSAA basis, but received no New Construction Grant(s), may re-file on another eligibility determination basis provided it withdraws all previously submitted *Application for Funding*, Form SAB 50-04 (Revised 07/02) requests for New Construction Grant(s), including those on the Unfunded List.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.63, 17074.15 and 17074.16 and 17074.56 Education Code.

#### Section 1859.108. Extension of Fire Code Requirements Exemption.

A portable building that has received a three-year exemption by the Division of the State Architect from the fire code requirements described in Education Code Sections 17074.50 and 17074.52 may receive up to an additional three-year extension of that exemption provided all the following criteria are met:

- (a) The portable was acquired or leased with SFP modernization funds.
- (b) The portable was used solely for interim housing during the construction of a SFP modernization project.
- (c) The portable building meets the definition outlined in Subdivision (c) of Education Code Section 17074.54.
- (d) The district has presented acceptable evidence to the Board that the portable building continues to be needed to house pupils as a result of the SFP modernization project.

Note: Authority cited: Section 17070.35, Education Code

Reference: Sections 17074.54, Education Code.

### Article 12. Joint-Use Project Grant Determination

#### Section 1859.120. General (Joint-Use Project Funding).

A district seeking Joint-Use Project funding pursuant to the provisions of Education Code Sections 17077.40, 17077.42 and 17077.45 shall complete and file an *Application for Joint-Use Funding*, Form 50-07 (New 09/02), after completing the applicable requirements in Section 1859.122.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17077.40, 17077.42 and 17077.45 Education Code

#### Section 1859.121. Joint-Use Project Application Submittals and Apportionments.

The Board shall accept Approved Applications for Joint-Use Funding as follows:

- (a) From the funding made available from Education Code Section 100620(a)(6) by approval of the voters of Proposition 47, applications will be accepted from November 5, 2002 through May 31, 2003. If Proposition 47 is approved by the voters, the Board will apportion the funding made available from Education Code Section 100620(a)(6) in July 2003.
- (b) From the funding made available from Education Code Section 100820(a)(4) by approval of the voters of the Kindergarten-University Public Education Facilities Bond Act of 2004 either at the direct primary election in 2004 or at the statewide general election on November 2, 2004, applications will be accepted from June 1, 2003 through May 31 2004. If the Kindergarten-University Public Education Facilities Bond Act of 2004 is approved by the voters at the direct primary election in 2004, the Board will apportion the funding made available from Education Code Section 100820(a)(4) in July 2004. If the Kindergarten-University Public Education Facilities Bond Act of 2004 is approved by the voters on November 2, 2004, the Board will apportion the funding made available from Education Code Section 100820(a)(4) in July 2005.

There is no limit to the number of Approved Applications for Joint-Use Funding that may be submitted by a district in each of the time periods identified in (a) or (b).

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17077.40, 17077.42 and 17077.45 Education Code

#### Section 1859.122. Joint-Use Program Eligibility Criteria.

A district is eligible for Joint-Use Project funding pursuant to the provisions of Education Code Sections 17077.40, 17077.42 and 17077.45 and may submit an *Application for Joint-Use Funding*, Form 50-07 (New 09/02) to the OPSC if:

- (a) The funding request is for a Type I Joint-Use Project and all the following criteria are met:
  - (1) The plans and specifications for the Type I Joint-Use Project are included in the plans and specifications for a new school or an addition to an existing public school, and the district has requested SFP new construction funding for the new school or the addition.
  - (2) The Type I Joint-Use Project will be located on the same site where the SFP new construction project is located.
  - (3) The Type I Joint-Use Project will provide facilities to be used for any of the following:
    - (A) To improve pupil Academic Achievement.
    - (B) To provide Teacher Education.
    - (C) To provide Childcare Facilities.
  - (4) The Joint-Use Partner is an institution of Higher Education.
  - (5) The district has entered into a Joint-Use Agreement that meets the criteria in Section 1859.129.
  - (6) The district has joint-use square footage eligibility pursuant to Section 1859.124(a).
  - (7) The construction contract for the Type I Joint-Use Project was executed on or after April 29, 2002.
  - (8) The plans and specifications for the Type I Joint-Use Project have been approved by the DSA.
  - (9) The plans for the Type I Joint-Use project have been approved by the CDE.
- (b) The funding request is for a Type II Joint-Use Project and all the following criteria are met:

- (1) The plans and specifications for the Type II Joint-Use Project are included in the plans and specifications for a new school or an addition to an existing public school and the district has requested SFP new construction funding for the new school or the addition.
- (2) The Type II Joint-Use Project will be located on the same site where the SFP new construction project is located.
- (3) The Type II Joint-Use Project will increase the size and/or Extra Cost of any of the proposed facilities included in the SFP new construction project:
  - (A) A multipurpose room.
  - (B) A gymnasium.
  - (C) A childcare facility.
  - (D) A library.
- (4) The Joint-Use Partner is a governmental agency, a public community college, a public college or public university or a Nonprofit Organization.
- (5) The district has entered into a Joint-Use Agreement that meets the criteria in Section 1859.129.
- (6) The district has demonstrated it has joint-use square footage eligibility pursuant to Section 1859.124(b) or that it will incur Extra Cost pursuant to Section 1859.125.1.
- (7) The construction contract for the Type II Joint-Use Project was executed on or after April 29, 2002.
- (8) The plans and specifications for the Type II Joint-Use Project have been approved by the DSA.
- (9) The plans for the Type II Joint-Use Project have been approved by the CDE.
- (c) The funding request is for a Type III Joint-Use Project and all the following criteria are met:
  - (1) The Type III Joint-Use Project will be located at an existing public school that meets any of the following:
    - (A) The existing public school does not have the type of facility for which the Joint-Use Funding is requested.
    - (B) The existing public school has the type of facility for which the Joint-Use Funding is requested, but the facility is Inadequate.
  - (2) The Type III Joint-Use Project will provide facilities to be used for any of the following:
    - (A) To improve pupil Academic Achievement.
    - (B) To provide Teacher Education.
    - (C) A multipurpose room.
    - (D) A gymnasium.
    - (E) A library.
    - (F) A childcare facility.
- (3) The Joint-Use Partner is:
  - (A) An institution of Higher Education if the Type III Joint-Use Project will provide facilities that improve pupil Academic Achievement or provide Teacher Education.
  - (B) A governmental agency, a public community college, a public college or public university or a Nonprofit Organization if the Type III Joint-Use Project will provide facilities to be used as a multipurpose room, a gymnasium, a library or a childcare facility.
- (4) The district has entered into a Joint-Use Agreement that meets the criteria in Section 1859.129.
- (5) The district has joint-use square footage eligibility pursuant to Section 1859.124(c).
- (6) The construction contract for the Type III Joint-Use Project was executed on or after April 29, 2002.
- (7) The Preliminary Plans for the Type III Joint-Use Project are complete.
- (8) The Preliminary Plans for the Type III Joint-Use project have been approved by the CDE.

If the Joint-Use Project will serve more than one grade configuration or the Joint-Use Project will serve multiple public school sites, the Joint-Use Project eligibility and funding will be determined based on the highest grade level served by the facility for which the Joint-Use Funding is requested.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17077.40, 17077.42 and 17077.45 Education Code

Section 1859.123. Qualifying SFP New Construction Project.

For purposes of meeting the requirements in Section 1859.122(a)(1) or (b)(1), the district may augment its Joint-Use Project with any of the following new construction applications:

- (a) A new construction funding request that is submitted at the same time as the Joint-Use Project application.
- (b) An Approved Application for new construction funding that has not yet received an approval (i.e. not yet on the Unfunded List) if all the following criteria are met:
  - (1) The plans and specifications for the Joint-Use Project were not included in the original DSA approved plans and specifications for the Approved Application for new construction funding.
  - (2) The original DSA approved plans and specifications for the Approved Application for new construction funding are modified to incorporate the plans and specifications for the joint-Use Project.
  - (3) The district has withdrawn the Approved Application for new construction funding pursuant to Regulation Section 1859.107 for the benefit of adding a Joint Use project.
  - (4) A revised new construction funding application and the Joint-Use Project application are resubmitted to the OPSC at the same time.
- (c) An Approved Application for new construction funding that has been approved, but has not received a full apportionment (i.e. currently on the Unfunded List) or fully funded, if all the following criteria are met:
  - (1) The plans and specifications for the Joint-Use Project were included in the original DSA approved plans and specifications for the Approved Application for new construction funding.
  - (2) The contract for the construction of the Joint-Use Project was executed on or after April 29, 2002.
  - (3) The district entered into a joint-use agreement prior to the approval of the Approved Application for new construction funding that meets the criteria in (A) or (B) below:
    - (A) If the district is satisfying the requirements of Section 1859.122(a)(1) for a Type I Joint-Use Project application, the:
      - 1. Joint-Use Partner is an institution of Higher Education.
      - 2. Joint-use agreement contained the provisions of Subdivision (b) of Education Code Section 17077.42.
    - (B) If the district is satisfying the requirements of Section 1859.122(b)(1) for a Type II Joint-Use Project application, the:
      - 1. Joint-Use Partner is a governmental agency, a public community college, a public college or public university or a Nonprofit Organization.
      - 2. Joint-use agreement contained the provisions of Subdivision (b) of Education Code Section 17077.42.
  - (4) The joint-use agreement will be amended, if necessary to comply with the requirements of Section 1859.129.
  - (5) The Joint-Use Project application is submitted separately. There is no requirement that the Approved Application for new construction be withdrawn from the Unfunded List.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17077.40, 17077.42 and 17077.45 Education Code

#### Section 1859.124. Joint-Use Project Square Footage Eligibility.

With the exception of funding requests for Extra Cost of a Type II Joint-Use Project, the district must have square footage eligibility in order to submit an application for Joint-Use Project funding. Depending on the type of Joint-Use Project, the square footage eligibility is calculated as follows:

- (a) If the funding request is for a Type I Joint-Use Project, the square footage eligibility is the amount determined in the Square Footage Chart shown in Section 1859.124.1.
- (b) If the funding request is for a Type II Joint-Use Project, the square footage eligibility is the amount determine in (b)(3) calculated as follows:
  - (1) Determine the total square footage of the joint-use facility for which Joint-Use Project funding is requested.
  - (2) Determine the square footage for the type of joint-use facility for which Joint-Use Project funding is requested in the Square Footage Chart shown in Section 1859.124.1.
  - (3) The square footage eligibility is the difference by subtracting the amount determined in (b)(2) from the amount determined in (b)(1). If negative number, the square footage eligibility is zero.
- (c) If the funding request is for a Type III Joint-Use Project, the square footage eligibility is the amount determine in (c)(4) calculated as follows:

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

- (1) Determine the total square footage of any existing like-kind joint-use facilities at the same site where the Joint-Use Project facility will be located.
- (2) Determine the square footage for the type of joint-use facility for which Joint-Use Project funding is requested in the Square Footage Chart shown in Section 1859.124.1.
- (3) Multiply the amount in (c)(2) by 60 percent.
- (4) If the amount determined in (c)(1) is greater than the amount determined in (c)(3), the square footage eligibility is zero. If the amount determined in (c)(1) is equal to or less than the amount determined in (c)(3), the square footage eligibility is the amount determined in (c)(2).

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17077.40, 17077.42 and 17077.45 Education Code

#### Section 1859.124.1. Square Footage Facility Chart.

Use the Chart below to determine square footage for purposes of Section 1859.124. The three columns to the left indicate the facility types that may be funded under a Type I, Type II or Type III Joint-Use Project.

<b><u>CHART OF SQUARE FOOTAGES</u></b> <b><u>(In Square Feet)</u></b>						
<b><u>Type I</u></b>	<b><u>Type II</u></b>	<b><u>Type III</u></b>	<b><u>Facility Type</u></b>	<b><u>Elementary School</u></b> <b><u>K-6, K-8</u></b>	<b><u>Middle School</u></b> <b><u>7-8 or 6-8</u></b> <b><u>(on Separate Campus)</u></b>	<b><u>High School</u></b> <b><u>7-12 or 9-12</u></b> <b><u>(on Separate Campus)</u></b>
	X	X	<u>Multi-purpose Room</u> <u>(includes food service)</u>	<u>5.3 per pupil</u> <u>Minimum 4,000</u>	<u>5.3 per pupil</u> <u>Minimum 5,000</u>	<u>6.3 per pupil</u> <u>Minimum 8,200</u>
	X	X	<u>Gymnasium</u> <u>(includes shower/locker)</u>	<u>5.3 per pupil*</u> <u>Minimum 5,000*</u>	<u>12.9 per pupil</u> <u>Minimum 6,828</u> <u>Maximum 16,000</u>	<u>15.3 per pupil</u> <u>Minimum 8,380</u> <u>Maximum 18,000</u>
	X	X	<u>Library</u>	<u>2.3 per pupil</u> <u>plus 600</u>	<u>3.3 per pupil</u> <u>plus 600</u>	<u>4.3 per pupil</u> <u>plus 600</u>
X		X	<u>Teacher Education or</u> <u>Pupil Academic</u> <u>Achievement</u>	<u>39 per pupil or as</u> <u>approved by CDE</u>	<u>39 per pupil or as</u> <u>approved by CDE</u>	<u>39 per pupil or as</u> <u>approved by CDE</u>
X	X	X	<u>Childcare</u>	<u>60 per child</u> <u>Minimum 1,440</u>	<u>60 per child</u> <u>Minimum 1,440</u>	<u>60 per child</u> <u>Minimum 1,440</u>

\* Available only if there is no multipurpose room or the existing multipurpose room is inadequate on the campus and the Joint-Use Agreement includes gymnasium space rather than a multipurpose room.

- (a) If the Joint Use Project requests funding for a multi-purpose room, gymnasium or library, multiply the amounts shown for the type of facility proposed in the Joint-Use Project by either (1) or (2) below:
  - (1) If the funding request is for a Type II Joint-Use Project, the sum of the latest CBEDS enrollment at the site and the number of pupil grants requested in the Qualifying SFP New Construction Project pursuant to Section 1859.123.
  - (2) If the funding is for a Type III Joint-Use Project, the latest CBEDS enrollment at the site.
- (b) If the Joint Use Project requests funding for Teacher Education or Pupil Academic Achievement, multiply the amounts shown, or the amounts approved by the CDE, by the number of pupils that will receive specialized training for teacher education and/or academic achievement.

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

- (c) If the Joint Use Project requests funding for a childcare facility, multiply the amounts shown by the number of children that will receive services.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17077.40, 17077.42 and 17077.45 Education Code

#### Section 1859.125. Joint-Use Project Grant Determination Based on Square Footage.

If the funding request is to construct square footage, the Joint-Use Grant is the lesser of the amount determined in (a) or (b):

- (a) The sum of the amounts determined below:
  - (1) \$173.30 for the Toilet Facilities in the Joint-Use Project as calculated in (a)(1)(B) below:
    - (A) Divide the eligible square footage of the Joint Use Project as determined in Section 1859.124 by the total square footage of the joint-use facility.
    - (B) Multiply the quotient determined in (a)(1)(A) by the Toilet Facilities in the joint-use facility.
  - (2) \$96.30 for non-Toilet Facilities in the Joint-Use Project as calculated in (a)(2)(B) below.
    - (A) Divide the eligible square footage of the Joint Use Project as determined in Section 1859.124 by the total square footage of the joint-use facility.
    - (B) Multiply the quotient determined in (a)(2)(A) by the non-Toilet Facilities in the joint-use facility.
- (3) 50 percent of site development work that meets the following criteria:
  - (A) It is necessary and applicable to the Joint-Use Project.
  - (B) It meets the requirements of Section 1859.76(a) and/or (c). If off-site development work is necessary pursuant to Section 1859.76(b), the district may request the eligible off-site work under the Qualifying SFP New Construction Project pursuant to Section 1859.123.
  - (C) It is considered excessive site development costs and not eligible for funding under the Qualifying SFP New Construction Project pursuant to Section 1859.123.
- (b) \$1 million if the Joint-Use Project will be located on a school site that is or will be serving Elementary School Pupil(s). \$1.5 million if the Joint-Use Project will be located on a school site that is or will be serving Middle School Pupil(s). \$2 million if the Joint-Use Project will be located on a school site that is or will be serving High School Pupils.

If the district is requesting funding for site development work applicable to the Joint-Use Project, the district must submit a detailed cost estimate and appropriate DSA approved plans, with the *Application for Joint-Use Funding*, Form SAB 50-07 (New 09/02). The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the Joint-Use Project.

The Board will approve the reasonable and appropriate site development work which meet common engineering practices and industry standards that are consistent with the specific site conditions if the site development costs are consistent with the Saylor Current Construction Costs, current edition. The design professional must certify to the district that the site development work does not exceed the minimum requirements to develop the site to meet educational needs and/or standards.

Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Joint-Use Project.

The dollar amounts shown in (a) are adjusted annually in a manner prescribed in Section 1859.71 and are eligible for Excessive Cost Hardship Grant(s) pursuant to Section 1859.83 (a), (b) and (c).

The Joint Use Grant amounts provided in this Section and Section 1859.125.1, if applicable, shall be deemed the full and final apportionment for the application. Any costs incurred by the district beyond the Joint Use Grant amount shall be the responsibility of the district and/or the Joint Use Partner.

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17077.40, 17077.42 and 17077.45 Education Code

#### Section 1859.125.1. Additional Joint-Use Grant for Extra Cost.

In addition to the Joint-Use Grant provided in Section 1859.125 based on square footage, if applicable, a Type II Joint-Use Project may receive funding for Extra Cost equal to the lesser of (a) or (b):

- (a) An amount determined by subtracting (a)(2) from (a)(1):
  - (1) The sum of the following:
    - (A) 50 percent of the estimated cost to construct the Joint-Use Project.
    - (B) 50 percent of site development work that meets the following criteria:
      - 1. It is necessary and applicable to the Joint-Use Project.
      - 2. It meets the requirements of Section 1859.76(a) and/or (c).
      - 3. It is considered excessive site development costs and not eligible for funding under the Qualifying SFP New Construction Project pursuant to Section 1859.123.
      - 4. The district did not receive funding for the site development work under Section 1859.125.
  - (2) The sum of the following:
    - (A) \$173.30 for the Toilet Facilities in the Joint-Use Project.
    - (B) \$96.30 for the non-Toilet Facilities in the Joint-Use Project.
- (b) An amount determined by subtracting (b)(2) from (b)(1):
  - (1) \$1 million if the Joint-Use Project will be located on a school site that is or will be serving Elementary School Pupil(s). \$1.5 million if the Joint-Use Project will be located on a school site that is or will be serving Middle School Pupil(s). \$2 million if the Joint-Use Project will be located on a school site that is or will be serving High School Pupils.
  - (2) The Joint-Use Grant amount determined in Section 1859.125 based on square footage, if applicable.

If the district is requesting funding for site development work applicable to the Joint-Use Project, the district must submit a detailed cost estimate and appropriate DSA approved plans, with the *Application for Joint-Use Funding*, Form SAB 50-07 (New 09/02). The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the Joint-Use Project.

The Board will approve the reasonable and appropriate site development work which meet common engineering practices and industry standards that are consistent with the specific site conditions if the site development costs are consistent with the Saylor Current Construction Costs, current edition. The design professional must certify to the district that the site development work does not exceed the minimum requirements to develop the site to meet educational needs and/or standards.

Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Joint-Use Project.

The amounts shown in (a) are adjusted annually in a manner prescribed in Section 1859.71.

The Joint Use Grant amount provided in this Section and Section 1859.125, if applicable, shall be deemed the full and final apportionment for the application. Any costs incurred by the district beyond the Joint Use Grant amount shall be the responsibility of the district and/or the Joint Use Partner.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17077.40, 17077.42 and 17077.45 Education Code

#### Section 1859.126. Joint-Use Project Funding Priority and Funding Availability.



Pursuant to the timelines for the acceptance of applications and apportionment of available funds as outlined in Section 1859.121, the Board shall fund eligible Joint-Use Projects, for each application acceptance period, as follows:

- (a) To Type I Joint-Use Projects in the following order:
  - (1) By date order received for the application the district has designated as its first funding priority.
  - (2) By date order received for the application the district has designated as its second funding priority.
  - (3) By date order received for the application the district has designated as its third funding priority and so on until all Type I Joint-Use Project applications have been apportioned.
- (b) To Type II Joint-Use Projects in the following order:
  - (1) By date order received for the application the district has designated as its first funding priority.
  - (2) By date order received for the application the district has designated as its second funding priority.
  - (3) By date order received for the application the district has designated as its third funding priority and so on until all Type II Joint-Use Project applications have been apportioned.
- (c) To Type III Joint-Use Projects in the following order:
  - (1) By date order received for the application the district has designated as its first funding priority.
  - (2) By date order received for the application the district has designated as its second funding priority.
  - (3) By date order received for the application the district has designated as its third funding priority and so on until all Type III Joint-Use Project applications have been apportioned.

If a Joint-Use Project cannot be fully apportioned because of the funding available, the district may either accept the available funding as the full and final apportionment for the project or refuse funding. If funding is refused, the application will be returned to the district and the Board shall consider funding the next project eligible for an apportionment based on the above funding priority mechanism.

Any Joint-Use Project not considered for an apportionment because of the above funding priority mechanism shall be returned to the district. A district may resubmit a returned Joint-Use Project application during the subsequent application acceptance period identified in Section 121(b), if the application meets the eligibility criteria at the time of resubmittal.

Any funds not apportioned because of the above funding priority mechanism in the application acceptance period identified in Section 121(a) or any Joint-Use Project funds rescinded or reduced to cost incurred as a result of these regulations shall be made available for apportionment in the application acceptance period identified in Section 121(b).

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17077.40, 17077.42 and 17077.45 Education Code

#### Section 1859.127. Joint-Use Partner Financial Contribution.

The Joint Use Partner is required to make a financial contribution towards the cost of the Joint-Use Project equal to the Joint-Use Grant(s) provided by Sections 1859.73.1, 1959.125 and 1859.125.1. Any funding provided by the Joint-Use Partner cannot be funds that would otherwise be available to the district.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17077.40, 17077.42 and 17077.45 Education Code

#### Section 1859.128. Additional Financial Contribution.

If additional project costs will be incurred by the district beyond the Joint-Use Grant(s) provided by Sections 1859.73.1, 1959.125, 1859.125.1 and the Joint-Use Partner's financial contribution required pursuant to Section 1859.127, the additional financial contribution may be made by the Joint-Use Partner, the district or from any other local source.

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17077.40, 17077.42 and 17077.45 Education Code

#### Section 1859.129. Joint-Use Agreement.

The Joint-Use Agreement entered into with the appropriate Joint-Use Partner shall include, at a minimum, all the following:

- (a) A provision regarding the shared responsibility for funding the Joint-Use Project between the district, the Joint-Use Partner and any other funding source, if applicable.
- (b) A provision regarding the shared responsibility for funding of the operational costs of the Joint-Use Project between the District and the Joint-Use Partner after construction is completed.
- (c) A provision that specifies the responsibilities of the district and the Joint-Use Partner regarding the operation and staffing of the Joint-Use Project after construction is completed.
- (d) A provision regarding specific criteria that will be utilized by the district and the Joint-Use Partner to ensure the safety of the pupils during regularly scheduled school hours.
  
- (e) A provision that the Joint-Use Project will be used, to the greatest possible degree by both the district and the Joint-Use Partner, and will be made available to the district for at least 20 hours per week.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17077.40, 17077.42 and 17077.45 Education Code

#### Section 1859.130. Time Limit on Apportionment.

- (a) If the district received an apportionment for a Type I or II Joint-Use Project, the district is:
  - (1) Subject to the 18 month substantial progress time limit on the apportionment as outlined in Subdivision (b) of Education Code Section 17076.10.
  - (2) Subject to the 18 month fund release time limit on the apportionment as outlined in Subdivision (d) of Education Code Section 17076.10.
- (b) If the district received an apportionment for a Type III Joint-Use Project, the district:
  - (1) Has one year from the date of that apportionment to submit the plans and specifications to the OPSC for the Joint-Use Project that have been approved by the DSA and the CDE, otherwise the apportionment will rescinded without further Board action.
  - (2) Is subject to substantial progress time limit on the apportionment as outlined in Subdivision (b) of Education Code Section 17076.10.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17076.10, 17077.40, 17077.42 and 17077.45 Education Code

#### Section 1859.131. Eligible Joint-Use Project Expenditures.

Joint-Use Project Grants shall be expended as set forth in Education Code Section 17072.35 with the exception of the following:

- (a) Site acquisition, including lease of land. When a new site is necessary for a Type I or II Joint-Use Project, the district may request site acquisition costs under the Qualifying SFP New Construction Project pursuant to Section 1859.123.
- (b) Off-site development work. If off-site development work is eligible and necessary under the provisions of Section 1859.76(b), it would be considered an eligible expenditure under the Qualifying SFP New Construction Project pursuant to Section 1859.123.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17077.40, 17077.42 and 17077.45 Education Code

### Article 13. Critically Overcrowded School Facilities

#### 1859.140. General (Preliminary Apportionment).

A district seeking a Preliminary Apportionment pursuant to the provisions of Education Code Sections 17078.10 through 17078.30 for new construction shall complete and file a *Preliminary Application for Funding*, Form SAB 50-08 (New 09/02), which is incorporated by reference, after completing the requirements in Sections 1859.142 and 1859.143.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17078.10 and 17078.22, Education Code

#### 1859.141. Preliminary Application Submittals.

The Board shall accept Preliminary Applications as follows:

- (a) A district seeking a Preliminary Apportionment from the funding made available from Education Code Section 100620(a)(5) by approval of the voters of Proposition 47, shall complete and submit a *Preliminary Application for Funding*, Form SAB 50-08 (New 09/02) between November 6, 2002 through May 1, 2003.
- (b) A district seeking a Preliminary Apportionment from the funding made available from Education Code Section 100820(a)(3) by approval of the voters of the Kindergarten-University Public Education Facilities Bond Act of 2004 either at the direct primary election in 2004 or at the statewide general election on November 2, 2004, shall complete and submit a *Preliminary Application for Funding*, Form SAB 50-08 (New 09/02) between 60 calendar days prior to and 120 calendar days after the 2004 direct primary election, or the November 2, 2004 statewide general election, as appropriate.

If the voters do not approve Proposition 47 and/or the Kindergarten-University Public Education Facilities Bond Act of 2004, any Preliminary Application accepted for processing by the OPSC as provided in (a) and/or (b) will be returned unprocessed to the district.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17078.10 and 17078.20, Education Code

#### 1859.142. Preliminary Apportionment Eligibility Criteria.

A district may apply for a Preliminary Apportionment by submittal of a *Preliminary Application for Funding*, Form SAB 50-08 (New 09/02) if all of the following criteria are met:

- (a) The district has demonstrated that it has SFP new construction eligibility by completing the requirements of Section 1859.20 and appropriate adjustments to that eligibility as provided in Section 1859.51.
- (b) The Preliminary Application for which the district is requesting funding has not received an apportionment under the LPP, the SFP or other Proposition 1A funds.
- (c) The district has Qualifying Pupils as determined in Section 1859.143.
- (d) At least 75 percent of the number of pupils requested on the *Preliminary Application for Funding*, Form SAB 50-08 (New 09/02) are Qualifying Pupils from a Source School(s).
- (e) The General Location of a proposed school is one of the following:
  - (1) If the school will serve elementary school pupils only, the proposed school must be located:
    - (A) Within the attendance area of any of the Source School(s) the district assigned Qualifying Pupils from to meet the 75 percent requirement in (d); or,
    - (B) Within a one-mile radius of any of the Source School(s) the district assigned Qualifying Pupils from to meet the 75 percent requirement in (d).
  - (2) If the school will serve middle school pupils and/or high school pupils, the proposed school must be located:

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

- (A) Within the attendance area of any of the Source School(s) the district assigned Qualifying Pupils from to meet the 75 percent requirement in (d); or.
- (B) Within a three-mile radius of any of the Source School(s) the district assigned Qualifying Pupils from to meet the 75 percent requirement in (d).
- (3) Within the variance to the maximum distances, as approved by the CDE.

If the proposed school will serve a combination of elementary school pupils and middle school pupils, the General Location of the school for purposes of (e)(1) or (e)(2) shall be based on the highest grade served.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17078.18 and 17078.22, Education Code

#### 1859.143 Determination of Source School Qualifying Pupil Baseline Eligibility.

After the CDE Source School List has been published by the CDE, the Qualifying Pupils for a Source School shall be determined as follows:

- (a) Multiply the Usable Acres of the Source School by:
  - (1) 86 pupils per acre for a Source School identified as elementary on the CDE Source School List.
  - (2) 68 pupils per acre for a Source School identified as a middle school or a high school on the CDE Source School List.
- (b) Determine the CBEDS enrollment for the Source School as of the date the district submitted the Preliminary Application to the OPSC.
- (c) Subtract the amount determined in (a) from the amount determined in (b). The difference is the Qualifying Pupils Baseline Eligibility for the specific Source School.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Section 17078.18, Education Code

#### 1859.144 Adjustments to the Source School Qualifying Pupil Baseline Eligibility.

The Source School Qualifying Pupil Baseline Eligibility determined in Section 1859.142 will be adjusted as follows:

- (a) Reduced by the number of Qualifying Pupils the district assigned on the Preliminary Application to meet the 75 percent requirement in Section 1859.142 (d).
- (b) Increased by the Qualifying Pupils the district assigned on the Preliminary Application to meet the 75 percent requirement in Section 1859.142 (d) that has been rescinded pursuant to Section 1859.148.
- (c) Increased/decreased for changes in CBEDS enrollment in subsequent enrollment reporting years.
- (d) Increased/decreased for changes in Useable Acres from what was originally reported on the CDE Source School List.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Section 17078.18, Education Code

#### 1859.145. Preliminary Apportionment Determination.

The Preliminary Apportionment shall be equal to the sum of the following:

- (a) The amounts shown below for each pupil included in a Preliminary Application:
  - (1) \$5,226.82 for each elementary school pupil.
  - (2) \$5,533.65 for each middle school pupil.
  - (3) \$7,225.94 for each high school pupil.
  - (4) \$16,653.06 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
  - (5) \$11,137.37 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
- (b) An amount equal to 12 percent of the amount determined in (a) to fund the added cost for multilevel construction, if requested by the district.

- (c) An amount equal to one half of the site acquisition value determined in Section 1859.145.1.
- (d) An amount for site development cost determined by one of the following:
  - (1) One-half of the Site Development Cost for the specific site as authorized by Section 1859.76.
  - (2) One-half of the Site Development Cost as authorized by Section 1859.76 using historical information in the General Location. Historical information that may be considered to determine this estimated cost may include prior SFP projects of the district or other districts in the General Location.
  - (3) \$70,000 multiplied by the proposed acres requested on the *Preliminary Application for Funding*, Form SAB 50-08 (New 09/02).
- (e) If the Preliminary Application request is for a new school on a site with no existing school facilities, an amount equal to the difference in the amount determined in (a) and the amount shown in the Chart in Section 1859.83(c). To determine the number of classrooms in the proposed project, divide the number of pupils requested on the *Preliminary Application for Funding*, Form SAB 50-08 (New 09/02) by 25 for elementary school pupils, 27 for middle and high school pupils, 13 for Non-Severely Disabled Individuals with Exceptional Needs and 9 for Severely Disabled Individuals with Exceptional Needs. Round up.
- (f) An amount due to urban location, security requirements and impacted site equal to the following:
  - (1) If the sum of the proposed acreage requested on the *Preliminary Application for Funding*, Form SAB 50-08 (New 09/02) and any existing acreage at the proposed school site (if applicable) is at least 50 percent but less than 75 percent of the site acreage determined in (4) below, an amount equal to eight percent of the amount determined in (a).
  - (2) If the sum of the proposed acreage requested on the *Preliminary Application for Funding*, Form SAB 50-08 (New 09/02) and any existing acreage at the proposed school site (if applicable) is at least 30 percent but less than 50 percent of the site acreage determined in (4) below, an amount equal to 15 percent of the amount determined in (a).
  - (3) If the sum of the proposed acreage requested on the *Preliminary Application for Funding*, Form SAB 50-08 (New 09/02) and any existing acreage at the proposed school site (if applicable) is less than 30 percent of the site acreage determined in (4) below, an amount equal to 50 percent of the amount determined in (a).
  - (4) Multiply the sum of the pupil grants requested on the *Preliminary Application for Funding*, Form SAB 50-08 (New 09/02) and the current CBEDS enrollment on the site (if applicable) by .01775 for elementary school pupils, .021 for middle school pupils and .02472 for high school pupils. If the site for which the Preliminary Apportionment is requested is a Source School for purposes of assigning Qualifying Pupils in the Preliminary Application, subtract those Qualifying Pupils from the current CBEDS enrollment on the site before completing this calculation.
- (g) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (a), (b), (d)(3), (e) and (f) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).
- (h) An amount equal to 12 percent of the sum of the amounts determined in (a) through (g) for all Preliminary Applications received no later than May 1, 2003. For Preliminary Applications received after that date, the Board shall develop a new percentage factor based on data available at that time.
- (i) If the district qualifies for financial hardship assistance pursuant to Section 1859.81 at the time of submittal of the Preliminary Application, an amount equal to sum of the amounts determined in (a) through (h) less any district funds determined available for the project pursuant to Section 1859.81(a). Districts are advised that approval of financial hardship status at the time of submittal of the Preliminary Application does not guarantee financial hardship assistance when the Preliminary Apportionment is converted to a Final Apportionment. Districts must meet the financial hardship criteria pursuant to Section 1859.81 at the time the request is made to convert the Preliminary Apportionment to a Final Apportionment, including any district contribution made available at the time of the Preliminary Apportionment was made, in order to continue with financial hardship assistance for the project.

The amounts shown in (a) shall be adjusted annually in a manner prescribed in Section 1859.71.

#### Section 1859.145.1. Preliminary Apportionment Site Acquisition Value.

If the Preliminary Application includes a request for site acquisition funding, the value of the proposed site shall be the sum of the following:

- (a) The value of the property determined by one of the following:
  - (1) By an appraisal or a preliminary appraisal of the property made no more than six months prior to the date the Preliminary Application was submitted to the OPSC, using the guidelines outlined in Section 1859.74.1. The preliminary appraisal may be made without access to the property. The acreage identified in the appraisal or the preliminary appraisal may not exceed the proposed acreage requested on the *Preliminary Application for Funding, Form SAB 50-08 (New 09/02)*.
  - (2) The Median Cost of an acre of land in the General Location of the proposed project using historical information in the General Location multiplied by the number of proposed acres requested on the *Preliminary Application for Funding, Form SAB 50-08 (New 09/02)*. Historical information that may be considered to determine land cost may include prior real-estate sales consummated and documented by the county recorder or pending real-estate sales documented by a title insurance company's escrow instructions.
- (b) An amount for the estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA as determined by one of the following:
  - (1) 21 percent of the value determined in (a).
  - (2) The sum of the following.
    - (A) The approved relocation expenses for the specific site to be acquired that conform to Title 25, California Code of Regulations, Section 6000, et. Seq.
    - (B) The DTSC cost for review, approval, and oversight of the POSEA and the PEA for the specific site to be acquired.
    - (3) The estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA using historical information in the General Location. Historical information that may be considered to determined these estimated costs may include prior real-estate acquisitions of the district or other districts in the General Location.
- (c) Four percent of the amount determined in (a), but not less than \$50,000. This amount shall provide an allowance of any appraisal, escrow, survey, site testing, CDE review/approvals and preparation of the POSEA and the PEA.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17078.10 and 17078.24, Education Code

#### 1859.146. Preliminary Apportionment Funding Priorities.

If the amount of the Preliminary Applications received pursuant to Section 1858.141(a) exceed the funds available in the 2002 Critically Overcrowded School Facilities Account or the amount of the Preliminary Applications received pursuant to Section 1858.141(b) exceed the funds available in the 2004 Critically Overcrowded School Facilities Account, the Board shall first apportion those Preliminary Applications that will house pupils from Source Schools with the highest pupil density levels. The calculation in (a) through (e) below is made independently for each Source School the district assigned Qualifying Pupils from to meet the 75 percent requirement in Section 1859.142(d). The pupil density level for the Preliminary Application is the amount determined in (f) as follows:

- (a) Divide the current CBEDS enrollment of the Source School by the Useable Acres of the Source School as shown on the CDE Source School List.
- (b) Divide the quotient determined in (a) by:
  - (1) 115 if the Source School is identified as an elementary school on the CDE Source School List.
  - (2) 90 if the Source School is identified as a middle school or a high school on the CDE Source School List.
- (c) Subtract 1 from the quotient determined in (b).

- (d) Divide the Source School's Qualifying Pupils assigned to the Preliminary Application to meet the 75 percent requirement in Section 1859.142(d) by the total Qualifying Pupils assigned to the Preliminary Application to meet the 75 percent requirement in Section 1859.142(d).
- (e) Multiply the difference determined in (c) by the quotient determined in (d).
- (f) Add the product(s) determined in (e) for each Source School the district assigned Qualifying Pupils from to meet the 75 percent requirement in Section 1859.142(d).

If two or more Preliminary Applications have the same pupil density level, the Board shall first apportion that Preliminary Application that was received first by the OPSC.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Section 17078.20, Education Code

#### 1859.147. Conversion of Preliminary Apportionment.

When a Preliminary Apportionment is converted to a Final Apportionment, all the following criteria must be met:

- (a) The district must have current New Construction Eligibility sufficient to support at least 75 percent of the pupils the district received funding for as a Preliminary Apportionment.
- (b) The Final Apportionment request must meet all criteria for a New Construction Adjusted Grant pursuant to Section 1859.21.
- (c) A district seeking to convert a Preliminary Apportionment to a Final Apportionment shall complete and file an *Application for Funding*, Form SAB 50-04 (Revised 09/02) which requests funding for at least 75 percent, but not more than 100 percent, of the pupils the district received funding for as a Preliminary Apportionment.

It is not necessary to re-justify the Qualifying Pupils assigned to the Preliminary Application as required by Section 1859.142(d) at the time the application is converted to a Final Apportionment.

If the district is unable to meet the criteria in this Section, the Preliminary Apportionment shall be rescinded pursuant to the provisions of Section 1859.148.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Section 17078.27, Education Code

#### 1859.148. Time Limit on a Preliminary Apportionment.

- (a) A Preliminary Apportionment not converted or requested to be converted to a Final Apportionment shall be rescinded:
  - (1) After one year from the date the Preliminary Apportionment was made, unless the district submitted an *Application for Funding*, Form SAB 50-04 (Revised 09/02) for the Final Apportionment to the OPSC pursuant to Section 1859.147 or the district is able to provide all the following:
    - (A) A certification that the CDE has determined in writing that there is at least one approvable site for the project within the General Location.
    - (B) A certification that the General Location will serve the Qualifying Pupils assigned to the Preliminary Application to meet the 75 percent requirement in Section 1859.142(d).
    - (C) A copy of the CDE letter supporting the certifications in (1) and (2).
    - (D) A copy of the board minutes of the governing board of the district acknowledging the criteria in items (1) through (3).
  - (2) After four years from the date the Preliminary Apportionment was made unless:
    - (A) The district received approval of an extension pursuant to Section 1859.148.1; or,
    - (B) The district submitted an *Application for Funding*, Form SAB 50-04 (Revised 09/02) for the Final Apportionment to the OPSC pursuant to Section 1859.147.

- (3) After five years from the date the Preliminary Apportionment was made if the district qualified for an extension pursuant to Section 1859.148.1 unless the district submitted an *Application for Funding*, Form SAB 50-04 (Revised 09/02) for the Final Apportionment to the OPSC pursuant to Section 1859.147.
- (b) If a Preliminary Apportionment is rescinded, the following will occur:
  - (1) The SFP New Construction Baseline Eligibility will be increased for the pupils assigned to the Preliminary Application.
  - (2) The Qualifying Pupil Baseline Eligibility will be increased by the Qualifying Pupils assigned to meet the 75 percent requirement in Section 1859.142(d) of the Preliminary Application.
  - (3) Any funds rescinded are subject to accountability pursuant to Section 1859.154.
  - (4) The district may request funding for the proposed project again, without restriction under any SFP Program, provided the project meets the eligible criteria of that specific program. Resubmittal of the funding request may occur as follows:
    - (A) If the project was rescinded pursuant to (a)(1) or (a)(3), anytime after the Preliminary Apportionment is rescinded.
    - (B) If the project was rescinded pursuant to (a)(2) and the final plans for the project are not complete within four years of the Preliminary Apportionment, anytime after the Preliminary Apportionment is rescinded.
    - (C) If the project was rescinded pursuant to (a)(2) and the final plans for the project were completed within four years after the Preliminary Apportionment, anytime after a period of five years from the date of the Preliminary Apportionment.

Any Preliminary Apportionment rescinded as a result of this Section shall be transferred to the Unrestricted Fund within the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account .

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Section 17078.25, Education Code

#### Section 1859.148.1. Time Limit Preliminary Apportionment Extension.

A district that has received a Preliminary Apportionment may request a one-year extension of the time limit on the apportionment prescribed in Section 1859.148. The Board shall approved the request provided the criteria in (a) or (b) are met:

- (a) The district has provided evidence that:
  - (1) The CDE has made a contingent or final approval of the proposed site.
  - (2) The CDE has approved the final plans for the project.
  - (3) The DSA has confirmed that the final plans for the project have been submitted to the DSA for review and approval.
- (b) Other evidence satisfactory to the Board.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Section 17078.25, Education Code

#### 1859.149. Preliminary Apportionment Progress Reporting Requirements.

Until a Preliminary Apportionment is converted to a Final Apportionment, the district shall submit an annual progress report of the project to the SAB. The progress report(s) are due to the SAB annually, beginning one year from the date the Preliminary Apportionment was made. The progress report(s) shall include:

- (a) The first progress report shall include all the following:
  - (1) A certification that the CDE:
    - (A) Has determined in writing that there is at least one approvable site for the project within the General Location;
    - or,
    - (B) Was unable to certify in writing that there is at least one approvable site for the project within the General Location.
  - (2) A certification that:



- (A) The General Location will serve the Qualifying Pupils assigned to the Preliminary Application to meet the 75 percent requirement in Section 1859.142(d); or,
- (B) The district is unable to certify at this time that the General Location will serve the Qualifying Pupils assigned to the Preliminary Application to meet the 75 percent requirement in Section 1859.142(d).
- (3) A copy of the CDE letter supporting the certifications in (1)(A) and (2)(A), if appropriate.
- (4) A copy of the board minutes of the governing board of the district acknowledging the criteria in items (1) through (3).
- (5) Progress towards completing requirements for a Final Apportionment as follows:
  - (A) Has the district obtained final appraisal of the site?
  - (B) Has final escrow instructions been completed or has condemnation proceeds commenced?
  - (C) Has the district completed the California Environmental Quality Act requirements?
  - (D) What percentage of the final plans are complete?
  - (E) Has the CDE approved the final plans?
  - (F) Have the final plans been submitted to the DSA for review and approval?
  - (G) Have the final plans been approved by the DSA?
- (b) Subsequent progress reports shall include all the following:
  - (1) The progress made towards completing the requirements for a Final Apportionment as outlined in (a)(5).
  - (2) A copy of the board minutes of the governing board of the district acknowledging the criteria in item (1).

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Section 17078.25, Education Code

#### 1859.150 Final Apportionment.

After the criteria in Section 1859.147 has been met to convert a Preliminary Apportionment to a Final Apportionment, the determination of the amount of the Final Apportionment is based on the provisions of any amended or new regulations that are effective at the time the *Application for Funding*, Form SAB 50-04 (Revised 09/02) for the Final Apportionment is submitted and accepted for processing by the OPSC. The Board shall convert the amounts determined below from the Preliminary Apportionment to the Final Apportionment:

- (a) If the Final Apportionment request is equal to or less than the Preliminary Apportionment, the Board shall convert the entire amount of the Final Apportionment. The difference in the Final Apportionment and the Preliminary Apportionment shall be transferred to the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account. The Final Apportionment shall become the full and final apportionment for the project.
- (b) If the Final Apportionment request is greater than the Preliminary Apportionment, the Board shall:
  - (1) Convert the entire amount of the Final Apportionment, if the balance in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account is greater than the difference in the Final Apportionment and the Preliminary Apportionment. The Final Apportionment shall become the full and final apportionment for the project.
  - (2) Convert the amount of the Preliminary Apportionment and any balance in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account, if the balance in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account is less than the difference in the Final Apportionment and the Preliminary Apportionment. Any amount of the Final Apportionment request not converted to a Final Apportionment shall be placed on a Final Apportionment Unfunded List and may be converted to a Final Apportionment at a later date pursuant to the provisions of Section 1859.150.1.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Section 17078.27, Education Code

#### Section 1859.150.1. Final Apportionment Unfunded List.

If any portion of the Final Apportionment request cannot be converted to a Final Apportionment pursuant to Section

1859.150 (b)(2), the amount not converted shall be placed on a Final Apportionment Unfunded List based on the date the remaining portion of the project was converted to a Final Apportionment. If, at a later date, funds become available in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account as a result of recessions pursuant to Section 1859.148, the Board shall convert the amounts shown on the Final Apportionment Unfunded List to a Final Apportionment based on the oldest date first.

- (a) If the funds available are sufficient to convert the entire amount shown on the Final Apportionment Unfunded List, the amount converted including any amounts converted previously shall become the full and final apportionment for the project.
- (b) If the funds available are insufficient to convert the entire amount shown on the Final Apportionment Unfunded List, the district may:
  - (1) Request that the funds available be converted to a Final Apportionment. If so, the amount converted including any amounts converted previously shall become the full and final apportionment for the project.
  - (2) Request that the project not be converted until there are sufficient funds to convert the entire amount shown on the Final Apportionment Unfunded List.

If the amount shown on the Final Apportionment Unfunded List cannot be converted to a Final Apportionment because there are no funds remaining in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account, the amount converted previously shall become the full and final apportionment for the project.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Section 17078.27, Education Code

#### Section 1859.151. Preliminary Apportionment District Matching Share Requirement.

Once a Preliminary Apportionment is converted to a Final Apportionment, the district will be subject to the district matching share requirement as described in Section 1859.77.1 at the time the Preliminary Apportionment is converted to a Final Apportionment.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17072.30, 17078.10 and 17078.24, Education Code

#### 1859.152. Eligible Expenditures.

SFP grants provided, as the Final Apportionment, must be expended on or after April 29, 2002 and must comply with Education Code Section 17072.35.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17072.35 and 17078.10, Education Code

#### 1859.153. Preliminary Apportionment. Fund Release.

Release of state funds is not authorized for a Preliminary Apportionment. Once the Preliminary Apportionment is converted to a Final Apportionment pursuant to Section 1859.150, the district may request a release of funds as prescribed in Section 1859.90.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17072.30 and 17078.27, Education Code

#### 1859.154. Fund Distribution.

- (a) From the funding made available from Education Code Section 100620(a)(5), the Board shall transfer the amount determined in (3) to the SFP New Construction Account after the Preliminary Apportionment(s) are approved by the Board:

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01

- (1) Determine the total value of the Preliminary Applications received pursuant to Section 1859.141(a).
- (2) Multiply the amount determined in (1) by 15 percent.
- (3) Subtract the sum of the amounts determined in (1) and (2) from \$1.7 billion. If negative number, the amount is zero.
- (b) From the funding made available from Education Code Section 100820(a)(3), the Board shall transfer the amount determined in (3) to the SFP New Construction Account after the Preliminary Apportionment(s) are approved by the Board:
  - (1) Determine the total value of the Preliminary Applications received pursuant to Section 1859.141(b).
  - (2) Multiply the amount determined in (1) by 15 percent.
  - (3) Subtract the sum of the amounts determined in (1) and (2) from \$2.44 billion. If negative number, the amount is zero.
- (c) Any funds remaining in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account not needed for purposes of converting projects to a Final Apportionment as authorized in Section 1859.150.1 shall be transferred to the SFP New Construction Account.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17072.27, 17078.30, 100620 and 100820, Education Code

#### Section 1859.155. Preliminary Apportionment.

The Board shall approve Preliminary Applications from the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account as follows:

- (a) If the total amount of the Preliminary Apportionment requests received during the application filing period described in Section 1859.141 are equal to or less than the amount in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account, the Board shall approve all Preliminary Apportionment requests.
- (b) If the total amount of the Preliminary Apportionment requests received during the application filing period described in Section 1859.141 are greater than the amount in the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account, the Board shall approve Preliminary Apportionment in accordance with the funding priorities described in Section 1859.146. Any Preliminary Application that cannot be fully approved shall be returned unprocessed to the district.

All funds approved for as a Preliminary Apportionment shall be transferred to the Restricted Fund within the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account. Any funds not approved as a Preliminary Apportionment shall be transferred to the Unrestricted Fund within the 2002 (or 2004, as appropriate) Critically Overcrowded School Facilities Account.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.  
Reference: Sections 17078.10, 100620 and 100820, Education Code

Includes OAL approvals and Secretary of State filings of 10/08/99, 10/13, 12/22, 01/07/2000, 04/12, 06/26, 07/17, 09/12, 12/27, 01/02/2001, 04/05, 07/25, 08/13, 12/21, 04/10/2002, and 06/01